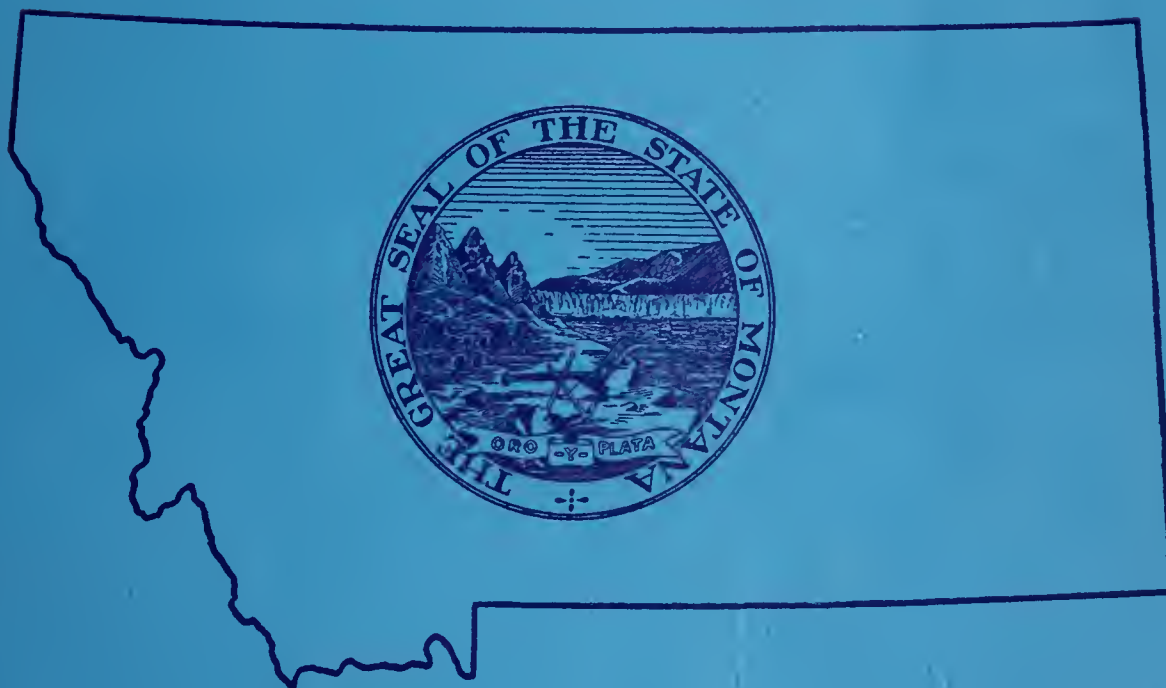


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THE ORGANIZATION AND ADMINISTRATION OF STATE GOVERNMENT



Montana Legislative Council

November 1960

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THE ORGANIZATION AND ADMINISTRATION OF STATE GOVERNMENT

A REPORT TO THE THIRTY-SEVENTH
LEGISLATIVE ASSEMBLY

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Montana Legislative Council

November 1960

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To members of the Thirty-Seventh
Legislative Assembly of Montana

This report is divided into two parts. The section on general administration discusses some of the fundamental defects in the organization of Montana's state government; recommendations for the consolidation of several state agencies follow. A chapter on salaries of department heads is also included. These studies were initiated as a result of House Resolution 14 and Senate Resolution 7.

The second section contains a study on one aspect of the fiscal administration of state government. This study was undertaken on the initiative of the Council.

There seems to be a growing concern among Montana's citizens about the growth, organization and possible reorganization of our state government. The legislative assembly will probably be under increasing pressure in the future to consider proposals to modernize the present governmental structure. The Council believes that this report will assist the legislature in reaching sound decisions in this important area of legislative interest.

Respectfully submitted,

ROBERT A. DURKEE
Chairman
Montana Legislative Council

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1959 - 1960

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SUMMARY OF REPORT

GENERAL ADMINISTRATION

The Council formulated and adopted standards for reorganization of our state government. The following organizational principles are considered fundamental.

(1) The basic plan should be as simple as possible and the number of separate organizational units should be held to a minimum.

(2) Related activities should be grouped together for most effective administration and minimum overhead cost.

(3) With few exceptions departments should be under single administrative heads responsible directly to the governor.

(4) The lines of authority should be clearly defined and the channels of communication open from top to bottom of the organization.

(5) The span of executive control required of any official should be no wider than will permit adequate supervision of the activities under his direction.

(6) Adequate staff assistance should be available to administrators to provide continuing review of organizational and operating procedures.

(7) While purely administrative powers should be assigned to single department heads, in some instances quasi-legislative and quasi-judicial powers should be assigned to plural bodies.

(8) Provision should be made for an independent audit outside of the executive branch.

The departmental structure of the executive branch should be limited to not more than twenty departments and preferably less.

It is proposed that the next Legislative Council consider formulating a blueprint for the reorganization of the executive branch of state government for future guidance.

The Need for Reorganization

Because of the expanding demands and needs for governmental services, there has been an increase in the complexity and cost of government. However, because specific problems have been met by adding piecemeal to the existing structure of government, the cost has been out of proportion to the expansion of services. There has been a lag in the adjustment of organization in state government and therefore, comprehensive changes will be necessary to insure efficiency and economy.

One condition calling for greater executive authority over operating policies is the extent to which some state agencies have become identified with special interest groups. Some of these groups, unable to achieve a particular goal on a private basis, have sought creation of state agencies to do what could not be done through voluntary action. Such agencies and their associated private groups are the source of much opposition to attempts at reorganization. The state must insure coordination between these agencies and state government as a whole and must guarantee that these agencies will be responsible to the entire electorate through the elected representatives of the people—the governor and the legislature.

Another weakness in Montana state government is the reliance on boards and commissions as administrative agencies. For purposes of administration where quick energetic action is desired, a board or commission constitutes the very poorest type of administrative unit.

The large number of separate units in government is in itself a defect in the present organizational structure because it is impossible to effectively correlate the activities and expenditures of these numerous departments into an objective plan or program. However, the primary deficiency is the unattached or "floating position" of many agencies which are not responsible to the governor, the legislature, or the people.

The governor of Montana is by constitutional mandate vested "with the supreme executive power of the state" but the laws do not explicitly provide a means by which such executive authority is to be asserted. Because of the independent nature of many state agencies, the governor is not required to play an active and interested role in the administration of state government. A responsible executive branch operating under a governor vested with adequate authority would strengthen the legislative branch by providing some insurance that legislative policies would be carried out and by freeing the legislature from concern with details that should be left to administrators.

The four main deterrents to a strong executive are:

(1) The long ballot. The presence of other constitutional elected executive officers often constitutes a real divisive force in executive policy.

(2) Long, over-lapping terms of administrative officers with no powers of removal. The long terms of almost all administrators and governing boards with no removal power by the chief executive weakens the administrative power of the governor.

(3) Too much detail assigned to the chief executive. The governor of the state of Montana sits as an ex officio member of sixteen boards. This requires the governor to concern himself with administrative trivia and interferes with the overall supervision of general administrative policy. A much more effective administration could be obtained by placing such activities under existing departments which are responsible to the governor through their department heads.

(4) The irresponsiveness of executive agencies. The effectiveness of the office of governor has also been reduced by the manner in which legislatures create departments subject to the law alone and not to any superior official in the administration. Scattering and dispersing authority among many governmental agencies cannot promote a more democratic government simply because it is impossible for the public to fix definite responsibility anywhere for the conduct of governmental affairs.

Consolidation of Agricultural Functions

In 1890 the state had only two agencies concerned with agricultural functions. By 1921 thirteen agencies operated in that area but shortly thereafter were consolidated into three departments. However, a number of agencies have been added since that time so that the present total is nine. There appears to be a general trend among the states to consolidate all agricultural activities into one department of agriculture. Usually the integrated department is divided into main divisions such as administration, plant industry, animal industry and marketing.

The consolidation of some of these agencies would simplify administrative direction, co-ordinate the programs and eliminate duplication of effort. It would reduce much of the current confusion in the minds of farmers and ranchers served by these agencies and, in addition, could result in savings of administrative costs.

As a starting point the Council recommends that the functions of the poultry improvement board and the hail insurance board be transferred to the department of agriculture. There are definite possibilities of further consolidation in this area but the Council did not complete its study of all agricultural activities during this interim. It is estimated that annual savings of between \$13,500 and \$16,000 could be expected from consolidation of the functions of the poultry improvement board into the department of agriculture. Integration of the hail insurance program with the department of agriculture will enable the state to realize some immediate savings in personnel costs with the possibility of greater savings in the future.

Salaries of State Department Heads

Financial returns for the more responsible posts in government service are far short of those received by executives in private business and of leaders in the professions.

There are a number of problems involved in the analysis of positions of state government. Any study, in order to be meaningful, would have to consider a number of variables and would involve extensive detailed research.

One method of evaluating salaries of department heads is by comparing them with department head salaries in other states. However, there is a conservatism in figures from other states because (1) many states are hesitant to make adjustments without precedents in other states, (2) because salaries in many states are constitutionally fixed and (3) there is a lag between the decision to revise salaries and the effective date. Also, because no two states are exactly alike nor are functions performed by the department heads always similar, such comparisons must be employed with care.

Government is growing in size and complexity and this growth is best controlled by competent executives. It is in the upper category that government salaries most often fall notably below the levels which prevail in industry. The number of positions involved is small and usually accounts for fewer than one percent of the total employees. Their salaries often account for no more than 2% of the total payroll, yet, it is in this group that requirements for top management skills should provide the catalytic force necessary to assure a sound return on the taxpayers' dollar.

The Council feels that unless the disparity between salaries paid state officials and those in private business is narrowed it will be increasingly difficult to secure able administrators in state government.

The Council has not, for the following reasons, attempted to place a dollar and cents valuation on the various salaries of department heads.

(1) The governor through his executive budget will recommend department head salaries to the 37th legislative assembly.

(2) The major elected officials will take office this January and their salaries cannot be changed during their term of office.

However, as long as there are over 100 departments and department heads as a result of the present departmentalization of government, salaries of department heads in Montana will tend to be low.

The Council does recommend a new method of continued control by making the governor responsible for fixing department heads' salaries. Excepted would be heads' of institutions governed by the board of examiners or board of education, elected officials, or officials whose salaries are line-itemed by legislative appropriation.

FINANCIAL ADMINISTRATION

There are four major steps in the fiscal administration of Montana state government:

- (1) budgeting
- (2) appropriating
- (3) spending
- (4) auditing

The Council devoted most of its time to studying the third phase, that of the controls and procedures involved in the expenditure of state funds.

There is excessive duplication in the handling of claims between the board of examiners, the state controller and the state auditor. The volume of claims sent through the board of examiner's office obviously precludes any real examination. However, the supposition that all claims are processed by that office and evaluated as to correctness, legality and propriety diffuses the responsibility for the proper check of claims presented for payment. Consequently, the sense of responsibility on the part of agency personnel for control of expenditures is diluted.

The Council recommends that the state controller be given statutory authority for the pre-auditing of claims, ascertaining that (1) the proper signature is present, (2) the claim is mathematically accurate, (3) the proper appropriation is charged and is adequate, and (4) the expenditure is not illegal. The state controller would not substitute his judgment for the decisions of departmental officials. The primary responsibility for the preparation of claims and the expenditure of state funds should lie with the agency head.

In addition, the Council recommends that the board of examiners be divested of statutory authority to approve out of state travel requests, approve the printing of reports by departments of government and supervise the state purchasing department.

If the recommendations in this report are carried out, an annual savings of almost \$9,000 would be possible and, in addition, the claim approval process would be expedited and fiscal control would be improved.

Note on Post-Auditing

Montana has no true post-audit. The state examiner and state controller share responsibility for the examination of state agencies and institutions. If the state controller is given the statutory responsibility for pre-auditing and approving claims as recommended, the examination of institutions and university units by that office should be transferred to the state examiner in order to avoid a concentration of too much of the fiscal cycle in one office.

Therefore, the Council recommends that an annual audit of the university units and custodial institutions be made by the state examiner.

PART ONE

GENERAL
ADMINISTRATION



GOVERNMENTAL EFFICIENCY SUBCOMMITTEE

Representative Norris Nichols

Chairman

Representative Fred E. Barrett

Senator William R. Mackay

Senator Arnold Rieder



HOUSE RESOLUTION NO. 14
(SENATE RESOLUTION NO. 7)

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE THIRTY-SIXTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA DIRECTING THE LEGISLATIVE COUNCIL TO STUDY THE CONSOLIDATION AND ORGANIZATION OF STATE BOARDS, BUREAUS, DEPARTMENTS, AND COMMISSIONS, AND TO STUDY THE SALARIES PAID TO THE VARIOUS OFFICERS AND ADMINISTRATIVE HEADS OF BUREAUS, BOARDS, OR COMMISSIONS.

WHEREAS, the special committee to investigate the consolidating of boards, bureaus, and departments made recommendations as to consolidation of various boards, bureaus and departments, some of which were enacted into law; and

WHEREAS, the committee recommended that further study should be made by the Legislative Council; and

WHEREAS, the committee appointed to study the salaries paid to administrative heads recommend that revision of the salary schedule is necessary so that the various officials and administrators might be paid salaries commensurate with their duties and responsibilities, but no agreement has been reached on a salary schedule;

NOW, THEREFORE BE IT RESOLVED, that the Legislative Council be directed to study the organization of state boards, bureaus, departments and commissions and make recommendations for consolidation of these boards, bureaus, commissions, and departments as they see fit; and

BE IT FURTHER RESOLVED, that the Legislative Council study the salaries of the administrative heads; and

BE IT FURTHER RESOLVED, that the Legislative Council present its findings and recommendations if any to the thirty-seventh legislative assembly.

I N T R O D U C T I O N

The first goal of the Council in its study on governmental efficiency and organization was to define the present state government structure. This project resulted in the preparation of an organizational chart entitled "The State Government in Montana". While the chart is useful as an index or listing of state governmental agencies, the primary reason for its preparation was to define the degree of responsibility of these agencies.

The Council then formulated and adopted certain generally accepted standards as guides to reorganization in federal and state governments. These standards reflect the influence of current management techniques developed in private business as well as government. The following organizational principles are considered fundamental.

1. A basic plan of organization should be as simple as possible, and the number of separate organizational units should be held to a minimum.
2. Related activities should be grouped together for most effective administration and minimum overhead cost.
3. With few exceptions, organizational units should be under single administrative heads responsible directly to the governor.
4. The lines of authority should be clearly defined, and channels of communication open from top to bottom of the organization.

5. The organizational framework should be such that the span of executive control required of any one official will not be wider than is practical in providing adequate supervision over the activities under his direction.
6. Provision should be made for adequate staff assistance to administrators in order to provide continuing review and modification of organization and operating procedures.
7. While purely administrative powers or responsibility should be assigned to single administrative officials and not to boards or commissions, in some instances advisory and investigating powers, general policy determinations in controversial areas and quasi-legislative and quasi-judicial powers should be assigned to plural bodies.
8. Provision should be made for independent audit, outside of the executive branch.

The adoption and implementation of the principles and conditions outlined above would result in a total reorganization of state government necessitating many statutory and constitutional changes. The Council, however, has not attempted to formulate a plan for comprehensive reorganization of Montana government at this time. However, it has applied these principles, where possible, to all changes in governmental structure that it recommends to the 37th Legislative Assembly. These principles are recommended to future legislatures and study groups as guides for the modernization of Montana state government.

The Council selected certain promising areas for detailed study and developed specific proposals for reorganization within these areas. Such proposals may be found in later chapters of this report.

As a general program for the future, the Council recommends that there be continuing consolidation and strengthening of executive powers and functions under the governor as chief executive of the state. This program would permit effective supervision by decreasing the number of agencies. The governor's immediate and personal staff should be strengthened to improve his ability to control and coordinate state administration.

While Montana's state government has never undergone a reorganization, the need was recognized almost twenty years ago by Governor Sam C. Ford.

May I direct your attention to the great increase in offices, departments and employees during the past several years, and resulting therefrom, an alarming growth in the cost of our Government. With this has come needless and expensive duplication of service. There is a pressing need for the re-organization of our entire State business structure, involving consolidation of offices, boards, departments and particularly, functions of Government; the eliminating of duplications; better co-ordination and strengthening of administrative responsibility. If we have the will and courage for it, retrenchment can be had without impairing any essential Governmental function.¹

There should be established in the executive branch a departmental structure with a limited number of major departments organized along functional lines, each under the direction of a single department head appointed by and responsible to the governor. While it is difficult, without additional study, to state definitely the number and nature of the departments which should comprise the administrative structure of Montana, the number should probably be limited to not more than twenty departments and preferably less. This particular limit was approved by constitutional conventions in New York, Missouri, and New Jersey. The constitution of Alaska and Hawaii contain almost identical constitutional provisions on this subject:

¹ Governor Sam C. Ford, Message to the *Twenty-seventh Legislative Assembly*, 1941, p. 8.

"All executive and administrative offices, departments, and agencies of the state government and their respective functions, powers and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes."²

It is impossible to accurately estimate the dollar savings that would result from consolidating agencies into a smaller number of principal departments. Improved executive and legislative control over governmental activities and elimination of duplicative overhead costs could certainly be expected in most instances.

*Although an immediate reduction in total expenditures is not expected to take place as a result of reorganization, it has become clear that more efficient organization will give the taxpayer the greatest value for every tax dollar spent.*³

However, even a thorough overhaul of the governmental structure will not work miracles with the state budget.

*Although organizational and administrative improvements can bring about certain savings or better work performance, it seems likely that major reductions in governmental costs will be achieved only by substantially reducing the number of services or activities which government performs.*⁴

The Council could not, with the time and means at its disposal, prepare a full plan for departmentalization of governmental functions. However it does propose that the next Legislative Council consider formulating a general plan for the reorganization of the executive branch of state government for future guidance. Until such a long range plan is conceived, groups studying the reorganization or reform of government will always be faced with the problem of having to "make up the rules as they go along." (See *Appendix A* for resolution.)

* * *

The Council acknowledges the assistance of Albert H. Kruse, Commissioner of Agriculture; E. K. Bowman, Chairman of the State Board of Hail Insurance; John M. Ferguson, Executive Officer of the Montana Poultry Improvement Board; and Melvin P. Martinson, Supervisor of the Joint Merit System. While many sources were used in the preparation of the general material on governmental reorganization, the 1958 report of the Oregon Legislative Interim Committee on Government Reorganization was especially valuable.

² *Constitution of the State of Alaska*, Art. III, Sec. 22. See also *Constitution of the State of Hawaii*, Art. IV, Sec. 6.

³ The Council of State Governments, *State Reorganization in 1950*, p. 1.

⁴ *3rd Report of the Oregon Legislative Interim Committee on State Government Administration*, February 16, 1951, p. 13.

Chapter I.

THE NEED FOR REORGANIZATION

The maintenance of a system of government that is strong and efficient and yet subject to effective popular control is one of the major problems of our time. A responsive and responsible government serving the people in an efficient, orderly, economical way is the desired end in the planning of government organization. The reorganization of state government to achieve these ends is a continuing problem because of constantly changing conditions and expanding demands for governmental services.

Generally, refinements in state governmental structure have not kept pace with the growth of our population and economy. The use of land, water, and other resources has increased; expansion has occurred in industry, commerce and distribution, in transport and communications, and in our economic and social affairs generally. A natural result has been an increase in scope and complexity of service required of state government.

These expanding demands and needs for specific services to meet specific problems have been met by adding piecemeal to the existing structure of government. The result has been an increase in the complexity and cost of government out of proportion to the expansion of services. The larger the number of independent agencies, the greater the requirements for supervision, coordination and control. Another result of this "topsy-like" growth has been a reduction in the effective popular control of state government through responsible elected representatives—principally the governor and the legislature.

There has been, then, a lag in the adjustment of the organization in state government to expanded requirements. When this lag becomes great, comprehensive and even radical changes in the structure of government are necessary to insure efficiency and economy.

This chapter contains no specific recommendations. It is only a description of certain conditions that exist in the government and the reasons for these conditions. Immediate, specific recommendations for improving all of these conditions probably would be impractical; the things discussed here are fundamental and would require a series of fundamental changes. Yet, an awareness of these conditions by legislators is imperative, even if only relatively minor changes are to be made in state governmental structure in the immediate future.

GOVERNMENTAL ORGANIZATION IN MONTANA — CONDITIONS AND PROBLEMS

Montana provides a good example of the general conditions discussed above; its organization and machinery are cumbersome by any standards of comparison. There is a division of executive power among elected officials, a deficiency in the executive power of the governor, and a lack of comprehensive departmental framework into which additional functions may be logically fitted. The practice of creating new agencies to administer new functions has resulted in an unnecessarily large increase in the number of independent units, adding to the problems of effective management. Without extensive reorganization it is questionable if any executive, however able and dedicated, could effectively supervise the state's administration.

Special Interest Groups

One condition calling for greater executive authority over operating policies of administrative agencies, is the extent to which many of these agencies have become identified with a particular clientele—with private and special interest groups. The organization of

our society into social, political, economical, and occupational groups has reflected itself in governmental organization. Some of these groups, unable to achieve a particular goal on a private basis, have sought creation of state agencies to do what could not be done through voluntary action. These state agencies become, in many cases, closely identified with a private group and tend to be more concerned with the interests of the group than with those of the general public. Governed by individual boards and commissions, these agencies constitute a considerable area of government—virtually independent of overall executive control.

A cynical viewpoint, but one often expressed, is that these private groups have sought creation of a state agency primarily to gain access to the state's taxing and regulatory powers. These agencies and associated private groups are the source of much opposition to attempts of reorganization, because of the fear that such action may disturb existing group situations and economic or political balances. The existence of such agencies, however, makes reorganization all the more necessary. If the state lends taxing and regulatory powers to private groups, then there is an obligation on the part of the state to assure those taxed and regulated that procedures followed and rules adopted are not discriminatory either to the general public or to a segment of the regulated group. The state must also assume responsibility for insuring coordination between these state agencies and state government as a whole. Finally, the state must guarantee that these agencies will be responsible to the entire electorate through the elected representatives of the people—the governor and the legislature.

Boards and Commissions as Administrative Agencies

Another serious weakness of Montana state government is the reliance upon boards and commissions as administrative agencies. There are certain advantages in the use of boards and commissions but the extent to which they have been used in Montana has undoubtedly weakened both the policy-making role of the legislature and the responsibility of the executive.

The primary advantages of boards and commissions include the bringing of responsible citizens into positions of public trust, the opportunity for molding better judgments through collective wisdom of several individuals rather than only one, and greater responsiveness to the interests of the particular groups being served. When quasi-judicial or strictly advisory activities are involved, boards are sometimes preferable to single individuals. However, where boards have partial or full powers of internal administration inefficiency is sure to result. There are inherent defects in multi-member administrative control which prevent quickness and certainty of action, which spread responsibility which ought to be definite, and which in general hamper administrative effectiveness. A special joint committee of the Montana Legislature reached this conclusion twenty years ago:

A system of Government composed largely of boards and commissions is a decided weakness in the present administrative set up of the state. Boards and commissions are advisable when determining policies and considering questions requiring deliberation and discussion. However, for purposes of administration where quick energetic action is desired, a board or commission constitutes the very poorest type of administrative unit.¹

For good internal administration, departments should be headed by single administrators directly accountable to the executive officer of the state—who is in turn held responsible by the electorate.

¹ Report of Joint Committee on State Governmental Organization, *House Journal of the Twenty-seventh Legislative Assembly of the State of Montana*, 1941, pp. 399-400.

Hawaii's constitution provides, "Each principal department shall be under the supervision of the governor and, unless otherwise provided in this constitution or by law, shall be headed by a single executive." Alaska's constitution contains a similar provision.

Lack of Coordination and Control

Montana's administrative structure consists of 117 separate officials, departments, boards and commissions. Excluded from this total are units of the judicial and legislative branches. Included are all institutions which operate under the Board of Education and Board of Examiners as well as the elected officials. Not only is there duplication of functions among these various departments, agencies, boards, and commissions but many closely related activities are performed by different agencies. While some cooperative relationships exist between the agencies, the excessive division of related activities among them results in weak coordination and administrative control over the policies of the agencies.

The large number of separate units in itself is a defect in the present organizational structure. While unification of related functions within a single agency does not always guarantee maximum administrative efficiency, the present wide dispersion of activities among individual semi-autonomous units is almost a guarantee of maximum inefficiency. The existence and continued growth of a large number of separate units has resulted in a break-down of administrative and policy controls over activities within the executive branch.

It is impossible to effectively correlate the activities and expenditures of these numerous departments into an objective plan or program.

However, the primary deficiency is not the actual number, but the unattached or "floating" position of many agencies which are not responsible to the governor, the legislature or the people. The blocking power of honest disagreement and general confusion may be so great that the government is almost incapable of that orderly, disciplined harmony which is necessary for response to mass opinion. Strengthened control can be accomplished through integration of agencies into a stronger organizational framework cemented with the cohesive element of executive authority.

THE OFFICE OF GOVERNOR IN MONTANA

Because state government necessarily centers around the chief executive of the state, an analysis of the office of governor can provide a general critique of state government.

The Constitution of the state of Montana vests broad powers in the office of governor. Article VII, Section 5 provides that the supreme executive power in the state shall be vested in the governor who shall see that the laws are faithfully executed. Section 10 of the same article gives the governor the power to require information in writing from any office in the executive department and to appoint committees to investigate and report to him upon the condition of any executive officer or state institution. Section 19 of Article VII provides that an account shall be kept by the offices of the executive department of all moneys received and disbursed and a semi-annual report under oath thereof shall be made to the governor.

Section 82-1301 provides that the governor is to supervise the official conduct of all executive and ministerial officers; and is to see that all offices are filled and the duties thereof performed, or, in default thereof, apply such remedy as the law allows and if

the remedy is imperfect, acquaint the Legislative Assembly therewith at its next session. A committee of the Montana Legislative Assembly analyzed this grant of power as follows:

The Governor is vested with the supreme executive power of the state and it is his duty to see to it that the laws are faithfully executed. Yet, a number of departments, boards, and commissions have little or no direct connection with the Governor, and in other instances, the lines of authority are not set up clearly. Even if the Governor had the authority with which he is nominally vested, it would be impossible for him to keep in touch with all the boards, commissions and offices that at the present exist, let alone to supervise and coordinate their activities.²

The newly adopted constitution of the state of Alaska provides more explicitly the means by which such executive authority is to be asserted.

Section 22. All executive administrative offices, departments, and agencies of the state government and their respective functions, powers and duties shall be allocated by law among and within not more than twenty principal departments

Section 24. Each principle department shall be under the supervision of the Governor.

Section 25. The head of each principle department shall be a single executive unless otherwise provided by law. He shall be appointed by the Governor, subject to confirmation by a majority of the members of the Legislature in joint session, and shall serve at the pleasure of the Governor. . . .

Regardless of constitutional language vesting the supreme executive power in the governor, the executive authority in Montana actually has been dispersed among more than 100 state agencies. A recent publication has summed up this situation in picturesque language.

. . . Nearly all the state constitutions antedate the 20th century. This is not necessarily bad. A good old constitution may be preferable to a bad new constitution. Unfortunately, most of the constitutions reflect 19th century distrust of state government generally, and distrust of each branch particularly. The result was an excess of democracy, expressed in withholding of powers from the legislature (and) mincemeating of the executive Hog-tied, drawn, and quartered, many a state government was no government at all. The kingdom was but a sum of its numerous, petty, and often unpretty principalities. With such a heritage state government today finds it hard to do the kind of job that will restore public confidence. Even where there is a will there may be no way.³

Of the hundred odd agencies in the executive branch of government only three operating agencies are effectively responsible to the governor. Depending on the personal or political relationship between department heads or governing boards and commissions and the governor, and on the strength of the governor's personality, he may exert personal or political influence over these departments. However, the legal and constitutional framework of Montana's government does not force the governor to play an active and interested role in the administration of state government. The result is a kind of "government by option" insofar as the chief executive is concerned. Furthermore, when department heads or board members are appointed for fixed terms and cannot be removed except for cause, a governor is not naturally encouraged to participate in, or "interfere" with the activities of the agency. There have been rebellions of commissions in this state as a result of attempts by the governor to dictate policy to an agency governed by a board appointed wholly by him. One such incident could be enough to deter a governor from attempting to exercise leadership over other departments in the executive branch.

² Report of Joint Committee on State Governmental Organization, *op. cit.*, p. 399.

³ Columbia University, *The Forty-eight States: Their Task as Policy Makers and Administrators*, 1955, p. 8.

While members of the Legislative Assembly have recognized that our state government is largely comprised of semi-autonomous and often irresponsible agencies, they often attribute the lack of legislative control over these departments to excessive powers of the executive branch. The powers exercised by the executive branch of Montana's state government are not excessive but they are often irresponsible and uncontrolled. There are no well-defined lines of responsibility within the executive branch itself and there is no balance of control exercised by the legislative branch.

A responsible executive branch, properly headed by a governor vested with adequate authority, balanced by a system of independent controls such as the legislative post-audit, would increase the effectiveness of the legislature. A strengthening of the office of governor would not only strengthen the legislative branch by providing some insurance that its policies would be carried out, but would free it from the necessity of concerning itself with details that should be left to administrators.

The four main deterrents to a strong executive are (1) the long ballot, (2) long overlapping terms of administrative officers with no powers of removal in the chief executive, (3) too much detail assigned to the chief executive, and (4) the irresponsiveness of executive agencies. These are discussed separately below.

The Long Ballot

Describing the effect of a large slate of elected officers on the powers of the governor, one writer said:

*The Governor's power was severely limited by the presence of other executive officers whose authority derived from the Constitution. The same fundamental law which created his position created theirs. They too were elected by, and responsible to, the people. As a consequence they were legally independent of the chief executive.*⁴

The number of elected state officials varies from two in Alaska and New Jersey to twenty-five in Michigan with Montana falling near the middle with ten. The national trend is definitely away from the long ballot for the reasons described below:

*The presence of other constitutional elected executive officers is not a serious threat to the governor's ability to control the executive branch if those officers do not, in fact, exercise important executive powers. The presence of an elected secretary of state, for example, may be of minor practical significance if that officer performs mainly ministerial duties, many of which are of a minor character, and few of which have any real policy connotation. The presence of an elected superintendent of public instruction who has views divergent from that of the governor on the state's education policy, or the presence of an elected commissioner of agriculture who is strongly opposed to the governor's announced agricultural program, or even the presence of an attorney general who is, as is sometimes the case, of the opposite party and of a hostile disposition, is a horse of another color. These officers, as well as many others who are elected in certain states, actually perform functions which are quite significant to the governor's program. Their presence, therefore, may constitute a real divisive force in executive policy and management which is of considerable practical significance to the governor.*⁵

⁴ Leslie Lipson, *The American Governor From Figurehead to Leader*, University of Chicago Press, 1938, p. 31.

⁵ Coleman B. Ransone, Jr., *The Office of Governor in the United States*, University of Alabama Press, 1956, pp. 223-224.

This condition was recognized in Montana almost twenty years ago.

So far as elective officers are concerned, (six outside of the Governor) it is impossible for the Governor, or any other body, to exercise control over them, since they are responsible to the voters of the State, rather than to the Governor. . . . Present day administrative reorganization is providing for fewer elective officers, usually only three including the Governor.⁶

Long Overlapping Terms of Administrative Officers With No Removal Power By the Chief Executive

The governor, while obviously not being able to coerce a constitutional officer, has had his authority crippled by numerous restrictions of his supervisory powers over appointive officers. In Montana there have been numerous variations devised for appointing agency heads. The governor has independent and unrestricted power to appoint relatively few department heads and only one serves at his pleasure. The administration has been further taken out of the governor's hands by the length of term allotted to appointees. Many agencies are placed under boards and it has been the common practice to give the board members long over-lapping terms specially designed to make them independent of the chief executive.

Too Much Detail

It will be of interest to note that Montana has attracted special attention by national authorities in the field of government because of its adoption of a "government by commission" system.

Another western state, Montana, has a similar board for curbing the Governor. . . . The Governor has many ex officio duties—far too many indeed, to enable him to govern properly. Together with the elective Secretary of State and Attorney General he sits on the Board of Examiners which is the real chief executive. This board has great powers and holds frequent meetings. A former attorney general of the state told the writer that the Governor by no means rules the board. The triumvirate indulges in "trading" and "log-rolling", and the Governor may be over-ruled. A Governor of Montana complained to the writer that he had to sit on too many boards and could not possibly keep abreast of the proceedings. Indeed, at the very moment that he was saying this, the Water Conservation Board, of which he was ex officio chairman, was meeting in another part of the capitol. It would be in session for several days, and he would attend for about an hour to catch the gist of the discussion.⁷

Over forty years ago, these detailed duties of the governor of Montana were recognized as undesirable.

It must be apparent to any one that it is physically impossible for the Governor to perform all the duties devolving upon the Chief Executive of the State, and to serve intelligently upon all these Boards and Commissions.

Steps should be taken at once to relieve the Governor so far as practicable, from the performance of any duty not directly connected with the office of Chief Executive.⁸

⁶ Report of Joint Committee on State Governmental Organization, *op. cit.*, p. 400.

⁷ Lipson, *op. cit.*, p. 36.

⁸ Report of the State Efficiency and Trade Commission to Governor S. V. Steward, 1919, p. 4.

Twenty years later, after the governor collected two additional board memberships, a legislative committee offered similar criticism.

It goes without saying that the Governor cannot supervise all activities of the executive office and act as a member of fourteen or more boards, many of whose activities are to a large extent comparatively unimportant and on which his membership bears no more weight than that of any other member of the Board. He must spend a great deal of time taking care of the petty details of the administration of the various boards of which he is a member. A much more effective administration could be obtained by placing such activities under some existing department which is indirectly responsible to the Governor, through its department head.⁹

The response of the legislature was again to add two board memberships to the growing list. The governor now sits as an ex officio member of sixteen boards.

Such requirements that the governor himself directly participate in administrative minutiae defeat their own ends. He has so much to do that he cannot give time to all of the boards. If, however, he does attend board meetings, either he is "frittering away his energy on henhouses and piggeries" or he has to secure a majority vote on important matters by "trading" with the other members. In neither case can there be effective overall supervision of general administrative policy.

Irresponsiveness of Governmental Agencies

The effectiveness of the chief executive has been yet further reduced by the manner in which legislatures often create departments which are subject to the law alone, and not to any superior governmental official. A statement made on the floor of the Constitutional Convention in Massachusetts in 1917 may ring familiar to Montana ears.

Our present conception is to elect a figurehead Governor, a man who has important ceremonial functions, some power of supervision, some minor duties, but who is not the administrative head of the state.

A former Governor of Massachusetts could also have been speaking of Montana when he said,

The governor has absolutely no authority over a commission in this state. By condescension, by favor, he is permitted by the legislature to name the members of boards and with certain restrictions to remove them . . . the governor has no Constitutional authority to issue an order to a single board in this state . . . you give him no power. Tying his hands, you check him at every turn, . . . yet the people hold him responsible for the efficient management of the state's business affairs.

This common irresponsibility in state government has resulted from an application of the theory that government could be made responsive to the people by the subdivision of functions. Government would become irresponsible only if power were over-concentrated. Multiply your offices, and you could control each in his weakness. However, the theory failed when it was applied in practice.

For, who were the people to hold responsible? Actually they should regard each agency as separately accountable to themselves but the people were even less adequately equipped than the Governor to survey the maze. Even so, it would be hard to enforce control over a board. Which particular members were the responsible parties and how could they be reached? Public opinion could only look to the person who was in their view—the governor.¹⁰

⁹ Report of Joint Committee on State Governmental Organization, *op. cit.*, pp. 399-400.

¹⁰ Lipson, *op. cit.*, p. 45.

In short, legislatures tend to make each agency independent and neglect to provide for controlling them. If their policies diverge the most that can be hoped is a voluntary compromise. Jurisdictional conflicts are fought out with increasing friction and the governor cannot order the combatants to cease and desist. "Each state department," said a Virginia report, "is a little kingdom unto itself and their respective employees are separate and distinct as if all were not servants of the same master."¹¹ The theory, misconceived and overapplied, has produced deadlock.

Scattering and disbursing authority among many governmental agencies cannot promote a more democratic government, simply because it is impossible for the public to fix definite responsibility anywhere for the conduct of governmental affairs. Woodrow Wilson made the classic statement of this point of view. "There is no danger in power, if only it be not irresponsible. If it be divided, dealt out in shares to many it is obscured; if it be obscured it is made irresponsible."¹²

¹¹ Report of the Commission on Simplification and Economy, 1924, p. 32.

¹² The Study of Administration, *Political Science Quarterly* II (1887), p. 213.

Chapter II.

CONSOLIDATION OF AGRICULTURAL FUNCTIONS

House Resolution No. 14 and Senate Resolution No. 7 directed the Legislative Council to "study the organization of state boards, bureaus, departments and commissions and make recommendations for the consolidation of these boards, bureaus, commissions, and departments as they see fit . . . ". While much of the Council's efforts have been directed toward a broad, preliminary study of the general organization of government, it feels obligated under these resolutions to present to the legislature some specific plans for consolidation of state agencies.

Departments in Montana government which operate independently but which are concerned primarily with agricultural functions are: State Entomologist, State Board of Hail Insurance, Wool Laboratory Advisory Committee, Agriculture and Livestock Council, Poultry Improvement Board, Livestock Sanitary Board, Montana Livestock Commission, Department of Agriculture, and the Milk Control Board.

In 1890 the state had only two such agencies: The Board of Stock Commissioners and The State Veterinary Surgeon. By 1921 the number of departments concerned with agricultural activities totaled thirteen.

The message of Governor Joseph M. Dixon to the 17th Legislative Assembly in 1921 contained the following recommendation:

In the open belief that this legislature can initiate the beginning of a better day for agriculture in Montana, looking essentially to better systems of cooperation in all phases of agriculture, I now propose that we establish a real "Department of Agriculture" in Montana state government . . . and thus make the department the head center of all agricultural activities . . . in Montana.

In this department, and under the direction of its head should be concentrated all the work now being done by:

*The Commissioner of Agriculture and Publicity,
The Livestock Commissioners,
The Livestock Sanitary Board,
The Dairy Commissioner,
The State Veterinarian,
The Board of Poultry Husbandry,
The Recorder of Marks and Brands,
The Board of Horticulture,
The State Fair,
The Grain Grading Commission,
The Stallion Registration Board.*

Pursuant to Governor Dixon's recommendation, all of the departments listed above were consolidated into a Department of Agriculture, with the exception of the Livestock Commission, the Livestock Sanitary Board, the Recorder of Marks and Brands, and the Stallion Registration Board. (Laws of 1921, Chapter 216.) However, the Stallion Registration Board was abolished in 1953 and the secretary of the Livestock Commission now acts as the general recorder of marks and brands.

In 1959 the Special House Committee to Investigate the Consolidating of Boards, Bureaus, and Departments made the following recommendations, none of which were adopted:

The Poultry Improvement Board should be abolished and its functions transferred to the Livestock Sanitary Board.

Your committee recommends that the Milk Control Board be placed under the direction and supervision of the Department of Agriculture.

Your committee recommends that the Livestock Commission and its operation be placed under the Department of Agriculture.

We recommend that the Hail Insurance Department and its activities be transferred to the Department of Agriculture.

There now appears to be a general movement among the states to consolidate all agricultural activities under one department of agriculture. Usually the integrated department is divided into main divisions such as administration, plant industry, animal industry, and marketing. The purpose of such consolidation is first, to accomplish a dollar savings by eliminating duplicative overhead and personnel activities and, second, to create a more simple and responsible organization which can be effectively guided by the policies of governmental authorities.

A recent inaugural address by Governor Ralph Herseth of South Dakota summarized the objectives behind such consolidation.

A reorganization of the department of agriculture is in order. It must be strengthened to become a real force in aiding the welfare of agriculture, our No. 1 industry in South Dakota. The new department of agriculture should consolidate and centralize the many different boards, agencies, and commissions now dealing with various agricultural phases but without any real coordinating or executive direction from any source. I therefore recommend that you give full consideration to bringing into the department of agriculture the horticulture agency, the office of State veterinarian, the South Dakota State Horticulture Society, the dairy industry commission, the State brand board, the State weed board, the State soil conservation committee, the State weather control commission, the State livestock sanitary board, the seed certification board, and the State fair board. The incorporation of the administrative functions of the above agencies into one department and the merger of the several boards will simplify administrative direction, coordinate the work, and eliminate duplication of effort. It will reduce much of the current confusion in the minds of farmers and ranchers served by these agencies and make for savings of administrative costs.

In a statement before a Council subcommittee, Albert H. Kruse, Commissioner of Agriculture under two administrations for a total of sixteen years, made the following statement:

It is my opinion that if all activities of the State government affecting agriculture, were concentrated in the State Department of Agriculture, it would result in better service at less cost to the taxpayer and those paying fees for services rendered.

An assistant to the U.S. Secretary of Agriculture, when asked what services should be included in a State Department of Agriculture, replied:

The consensus seems to be that State Departments of Agriculture should be in the regulatory field and be charged with such activities as dairy and food inspection, bonding and licensing of livestock dealers and commission firms, enforcement of the pest and livestock disease control laws, etc.

As a starting point, the Council recommends that the functions of the Poultry Improvement Board and the Hail Insurance Board be transferred to the Department of Agriculture. There are definite possibilities of further consolidation in this area but the Council did not complete its study of all agricultural activities during this interim.

POULTRY IMPROVEMENT BOARD

The Poultry Improvement Board consists of the Montana Livestock Sanitary Board executive officer; the head of the dairy division, State Department of Agriculture; the extension specialist on poultry, Montana State College; and two other members appointed by the Governor "who shall be competent and experienced poultry men, who shall be the owners or operators of commercial poultry hatcheries". The appointed members serve for a term of four years. The primary purposes of the Poultry Improvement Board are to (1) certify and license hatcheries and hatching egg producers and (2) to cooperate with the Montana Livestock Sanitary Board in controlling diseases of poultry.

The Poultry Improvement Board has two full time employees, an executive officer and a secretary-bookkeeper. In addition, in past years, between \$600 and \$1,400 a year have been paid out for "other employees" and inspectors.

The 36th Legislative Assembly appropriated \$18,990 to the Poultry Improvement Board for the 1957-58 fiscal year and \$19,017 for the 1959-60 fiscal year. In addition, "as much as may be necessary to pay all lawful claims as provided by law" was appropriated from the Poultry Improvement Board fund. Income credited to the Poultry Improvement Board Fund has been running about \$3,000 a year. Consequently, departmental income plus appropriations total about \$22,000 per fiscal year. In past years expenditures have accounted for all appropriations and income.

Recommendation

The Council recommends that the powers and duties of the Montana Poultry Improvement Board be transferred to the Department of Agriculture. The bill implementing this recommendation appears in *Appendix B*. According to a publication of the U.S. Department of Agriculture¹ thirty-nine states have placed poultry regulation in their departments of agriculture.

The state veterinarian has estimated that all of the disease control activities presently provided by the personnel of the Poultry Improvement Board could be assumed by the Livestock Sanitary Board if an additional annual appropriation of between four and six thousand dollars was made available. This would be in addition to the present appropriation for the Livestock Sanitary Board of \$12,875 for poultry disease control. (See Section 46-209, R.C.M., 1947, for duties of the Livestock Sanitary Board relating to poultry disease control.) The commissioner of agriculture has estimated that with an additional annual appropriation of between \$2,000 and \$2,500 his department could assume all the licensing and certification activities of the Poultry Board. Thus, annual savings of between \$13,500 and \$16,000 may be expected. The Montana Poultry Improvement Fund should provide adequate means to finance the licensing and certification program, which would be assigned to the Dairy Division of the department of agriculture.

STATE BOARD OF HAIL INSURANCE

The State Board of Hail Insurance consists of five members: State Treasurer, the Commissioner of Agriculture and three members appointed by the Governor. The appointed members, one of whom is the chairman, serve for three-year terms. The chairman also acts as full time administrative officer of the board.

¹ U.S. Department of Agriculture, *State Departments of Agriculture, Organization, Function, Services*, Revised 1957.

The purpose of the State Board of Hail Insurance is to furnish limited protection against crop loss by hail at the actual cost of the risk, to all taxpayers who may elect to become subject to the provisions of the act.

The 36th Legislative Assembly appropriated \$34,160 from the Hail Insurance Administrative Fund for administrative costs for each year of the present biennium; \$20,600 for each year was earmarked for salaries. The State Board has two permanent employees, the chairman and the office manager, and hires about ten adjustors during the summer months. Travelling expenses are estimated at \$7,000 annually.

Apparently only two other states write hail insurance. In North Dakota the program is administered by a State Hail Insurance Department under the supervision of the Commissioner of Insurance; in Colorado the program is administered by the Commissioner of Agriculture.

Recommendation

The Council recommends that the administration of the state hail insurance program be assigned to the Department of Agriculture. (See *Appendix C* for bill.)

There is little reason for a board to administer the Hail Insurance Program. Few policy decisions are necessary—the chairman of the Board, who also acts as full-time administrator, now makes practically all decisions. The elimination of the Board would make possible a savings of all of the \$2,000 travel and per diem expenses of the Board except that accountable to the chairman.

Integration of the hail insurance program with the Department of Agriculture will enable the state to realize some additional savings in personnel costs with the possibility of greater savings in the future.

The State Board of Hail Insurance temporarily employs adjustors during the summer months. In 1958 nine adjustors were placed on the monthly payroll. Of a possible 554 man working days during the hail season, only 275 days were actually worked. The cost to the state for the 279 days lost was \$3,683.41. The Board defends this policy of overstaffing on the basis that during years of unusually heavy loss a large staff of adjustors is needed. It may well be that the salary loss to the state is unavoidable under the present administrative organization; however, one of the prime reasons for consolidation is to make possible a fuller utilization of personnel. If the hail insurance program were administered by the Department of Agriculture, these adjustors could often perform other duties for the Department when not otherwise occupied, such as assisting in the enforcement of grain licensing laws.

Conclusion

No attempt has been made to alter the substance of Hail Insurance or Poultry Improvement programs offered by the State of Montana nor to determine whether a continued need for such programs exist. The only purpose of these recommendations is to transfer existing programs to the Department of Agriculture with the expectation that equal or improved services will be offered to the public at a decreased cost.

Chapter III.

SALARIES OF STATE DEPARTMENT HEADS

House Resolution No. 14 and Senate Resolution No. 7 stated that "the committee appointed to study the salaries paid to administrative heads recommend that revision of the salary schedule is necessary so that various officials and administrators might be paid salaries commensurate with their duties and responsibility but no agreement has been reached on a salary schedule." The resolutions directed the Legislative Council to "study the salaries of the administrative heads."

The fixing of pay rates for Montana officials requires weighing a variety of elements which cannot be measured precisely. "The general view is doubtless correct that financial returns for the more responsible posts in government service are far short of those of executives in private business and of leaders in the professions."¹ The Governor of Montana has responsibilities which greatly exceed those of any business executive in the state; judges of the supreme court and the attorney general have an influence on the affairs of this state beyond that of any private attorneys.

One measure of the salaries of state judges and state administrators would be the compensation of business and professional leaders. The limitations of such a measure, however, are:

(1) The difficulty of determining which private positions are generally comparable to public offices because of the wholly different setting in which the respective duties are performed.

(2) The difficulty of securing accurate and comprehensive information about the earnings of business and professional men.

(3) The concept of public office as its own reward through opportunities for service and public recognition, or the attitude that public offices are posts of secondary importance when compared with those in private professions or industry and consequently entitled to lesser compensation.

Problems Involved in the Analysis of Positions

The term "department head" in Montana state government pertains to administrators of departments having as few as two permanent employees as well as to executives in charge of agencies that employ hundreds of persons. This situation has resulted from the fragmentation of our state government into over more than 100 departments. Consequently, any detailed study of salaries of department heads would necessitate an examination of the duties and responsibilities of each of these dissimilar department heads.

A study which actually evaluated the various positions in state government, in order to be meaningful, would have to consider such variables as:

(1) The size and scope of the official responsibility measured by the variety of departmental functions, the number of employees and amount of operating expenditures.

(2) The technical complexity of the activities which fall within the boundaries of official responsibility.

¹ Kentucky Legislative Research Commission, *Compensation of State Officials*, Research Publication No. 12, 1950, p. 4.

(3) Special managerial problems.

(4) The implications of good or poor performance by responsible officials. Appraisal of these terms must weigh broad social effects, the impact of the programs on individuals, as well as financial consequences.

(5) The type of accountability of the various offices. Some officers share their administrative responsibility with boards and commissions; others are directly or partially responsible to the governor and participate in the formulation of executive policies of the state; some are directly accountable to the people.

(6) The manner of selection. Although the responsibilities of some of the elective posts fall well below those of many appointed positions, these offices are nevertheless fairly important ones. Sufficient inducement should be offered to assure the candidacy of qualified persons in spite of the loss of time and money which campaigning involves.

Salaries in Other States

Such analysis as described above is beyond the scope of this study; however it is possible to provide some measure of the adequacy of salaries in Montana by comparing them to salaries paid in other states. While in many cases salaries of state administrators exceed those of elected officials and even that of the governor, to some degree the salaries of elected officials are a yardstick for salaries of all department heads in government. The salaries fixed for the office of governor understandably tend to limit those established for state department heads, and the compensation of the latter in turn sets the maximum rates attainable by their subordinates. In establishing pay rates for departmental administrators, therefore, it is necessary to consider the rates which are needed to secure and retain capable subordinates in the technical fields.

A schedule showing the salaries paid to seven major elected officials in all of the states appears in *Appendix D*. In addition is a schedule showing the salaries paid to these seven officials in western states comparable to Montana in size. A brief summary of salaries paid to some other administrative heads in all states is also included.

However, comparative data drawn from other states must be applied with caution and should not be taken as an absolute standard for the following reasons:

(1) There is a conservatism about such figures because (a) many states are hesitant to make adjustments without precedents in other states, and (b) salaries are constitutionally fixed in some cases, and in others there is a lag between the decision to revise salaries and the effective date of the adjustments because of prohibitions on salary changes during the terms of incumbents of the affected offices.

(2) No two states are exactly alike, either in geographic, economic or social characteristics, in the organization of state government, or in the functions which are performed by the state. Secretaries of state in several states have such duties as the issuance of motor vehicle and driver licenses in addition to those which are the responsibility of the Montana secretary of state. Several states have organized highway administration under a full time board, while others have assigned a highway function together with several others, to state departments of public works.

The Impact of Department Head Salaries on Governmental Efficiency

Government is the country's biggest business and requires the best of managerial skill if it is to operate efficiently and economically. Yet, as one writer recently stated,

An acute shortage of qualified top government personnel has developed in this country. It affects every area of governmental jurisdiction,

from the municipal level to the federal and it affects taxpayers—both corporate and private—for it is beginning to cut seriously into government efficiency.

In government . . . it has been more difficult to face a mass electorate with demands for salaries of \$20,000 or more, despite the fact that the responsibilities of many of the officials are comparable in both magnitude and complexity to those of business. It has been especially difficult to overcome this obstacle because no accepted basis has existed for comparing top level jobs in government with positions of comparable responsibility in business.²

Three reasons for putting government executives and professional leaders on a salary scale more comparable to those in industry are:

- (1) Population explosion and the resulting problems for governmental officials.
- (2) Increased complexity of government. Governmental administration now includes such things as complex tax structures, welfare systems, labor laws, laws regulating public utilities, planning and development commissions, etc. Also significant is the fact that Montana's budget has tripled in the last ten years.
- (3) The squeeze on executive man power which business men have encountered in the last five years and which will continue into the 1960's. The inevitable result is that government, with its low salaries for managerial jobs and its reluctance until now to stand up for adequate salary boosts at the top, is being bypassed by ambitious young talent and is losing some of its key people to business.

Many observers, when viewing government's growth in size and complexity, might feel that it is getting too large too rapidly. They would agree, however, that this growth is controlled best by competent executives—men of proven ability who can usually be attracted and retained in government only by salaries that are in reasonable relation to those found in business.³

It is in the upper category that government salaries most often fall notably below the levels which prevail in industry. The number of positions involved is small, and usually accounts for fewer than 1% of the total of employees. Their salaries often account for no more than 2% of the total payroll. Yet it is this group, with its requirements for top management skills, that should provide the catalytic force necessary to assure a sound return on the taxpayers' dollar. The benefits from possible improvement of management are almost without limit, and the total cost is negligible because of the size of the group.

A drive for better organization and for a higher degree of efficiency in government operation is underway in this country. It had its impetus from the original Hoover commission in the late 1940's. By 1953 more than 30 states had undertaken, with varying degrees of enthusiasm, to review and reorganize their administrative structures.

If this job is to be carried out promptly and efficiently, however, executives and professional leaders with a high caliber of skill and devotion to their jobs are required. In today's competitive market for this kind of key personnel in the upper brackets, most governmental units are at a salary disadvantage. Yet, without excellent personnel, the demands of the electorate for more and better services cannot be met.⁴

² Carl W. Robinson, "New Price Tags for Government Managers", *Harvard Business Review*, October 1958, p. 81.

³ *Ibid*, p. 83.

⁴ *Ibid*, p. 86.

Conclusions

The Council feels that unless the disparity between salaries paid state officials and those in private business is narrowed, it will be increasingly difficult to secure able administrators in state government. The Council has not at this time, however, for the reasons following, attempted to place a dollar and cents valuation on the various salaries of department heads.

(1) The 37th Legislative Assembly will receive for review a proposed budget prepared by the budget director and approved by the governor. Even if salaries of department heads do not appear as line items in the budget document, the budget director will have considered these salaries along with all other expenses in arriving at the total appropriation for each department. Such figures, which will be available through the budget director's office, will amount to recommendations by the governor for the salaries of the department heads. Therefore, the legislature will be furnished with recommendations for these salaries for the next interim.

(2) The major elected officials will take office this January and the salaries cannot be changed during their term of office. Because of the importance of keeping salaries current, recommendations for salaries of elected officials should be withheld for another two years.

A condition which will always tend to keep salaries of department heads low in Montana is the great number of departments in state government and the consequent number of department heads. Many department heads are concerned with relatively minor activities in state government and function primarily as technicians or clerks. However, because they do in fact, operate as heads of semi-independent or totally independent departments, they are forced to assume responsibilities for management and policy decisions and, therefore, are entitled to, or at least they feel that they are entitled to, salaries commensurate with these managerial responsibilities. Therefore, one apparent means of increasing salaries of department heads would be to reduce the number of departments and department heads. Many persons presently holding positions as heads of departments, when divested of management responsibility, could operate as specialists under a department head who is compensated for added managerial responsibility and duties. If the state had only twenty agencies it could afford salaries of \$20,000 per year for its department heads. However, as long as the administrative activity of state government is divided among more than one hundred departments, such salaries are inconceivable.

Recommendations

During the next interim, after the legislature has had a chance to review the governor's recommendations and prior to the last legislative session preceding the 1964 elections, perhaps the Legislative Council should again review this subject and recommend such adjustments as are necessary. The Council recommends that at that time the salary of the governor be increased to exceed that of any other state officer or employee.

The Council also considered the problem of continued, coordinated control of the salaries of department heads. Three apparent methods for such control exist. The first would be to continue to allow boards and commissions to increase the salaries of department heads within the limits of the departmental appropriation. The second would be for the legislature to line item all department head salaries; and the third would be to provide some effective means within the executive branch for controlling and approving salary increases.

The first method is generally conceded to be unsatisfactory. While the boards and commissions to which department heads are responsible possibly have the best under-

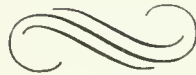
standing of necessary qualifications and of existing competitive conditions for the positions, there is absolutely no effective centralized control over salary increases for department heads. The "rubber stamp" approval of such requests by the board of examiners is granted perfunctorily.

The second approach, while having some immediate appeal to legislators, is subject to several serious defects, the foremost of which is inflexibility. Unforeseeable situations arise during the interim which might necessitate increases of department head salaries in order to retain qualified men or to hire replacements. The salary which satisfies a retiring incumbent for personal reasons may prove inadequate to attract a replacement. On the other hand, a lesser salary might adequately compensate a less experienced employee promoted to fill a vacancy. Such legislative control also requires the kind of detailed supervision which is inconsistent with broad policy-making purposes of the legislature.

The Council suggests a third means for providing centralized control over salaries of department heads. It is recommended that the governor be responsible for fixing such salaries. This responsibility would be commensurate with the governor's position as chief executive of all administrative agencies and would vest the responsibility for salary increases in an office accessible to both the legislature and electorate. Through the office of budget director, the governor would have access to the personnel information necessary to provide the background for his decisions. Excluded from this area of control, of course, would be the salaries of elected officials. Another merit of such a system would be to relieve the legislature of the necessity of considering the details of governmental administration by line iteming many of the salaries. However, it could exercise its prerogative to do so when it felt that inequities existed. The bill in *Appendix E* would vest this power in the governor.

PART TWO

FISCAL ADMINISTRATION



BUDGET ANALYSIS AND FINANCE SUBCOMMITTEE

Senator William R. Mackay
Chairman

Representative Ted Schwinden

Representative Fred E. Barrett

Representative Norris Nichols

Representative Lloyd Barnard*

Senator Kenneth Cole*

Senator William A. Groff*

Representative Clarence Walton*

(*not Council Members)



INTRODUCTION

There are four basic steps in the fiscal administration of Montana's state government: (1) budgeting, (2) appropriating, (3) spending, and (4) auditing. A similar pattern is found in practically every other state as well as other levels of government, although the techniques and details often vary.

Budgeting is the formulation of fiscal policy by the chief executive for presentation to the legislature. During the 1959 session the legislature passed an executive budget bill which assigned responsibility for budgeting to the governor of Montana.

The second phase of fiscal administration, appropriating, is a step exclusively within the control of the legislative branch of government. This step encompasses the work of the legislative committees and subcommittees which investigate departmental requests and needs throughout the legislative session and prepare and recommend appropriation bills to the legislature.

The third phase, that of spending these appropriated moneys, is perhaps the most complicated of all; certainly the designation "spending" does not begin to reveal the many steps involved. When appropriations are finally passed by the legislature, they must be posted on the state's ledgers; each departmental expenditure must be deducted from that account as it occurs. Each claim against the state must be processed, approved, posted, and, finally become the basis for a warrant against one of the state's funds. The administration of the state's purchasing laws and the operation of the state treasury also fall into this category.

The final step in fiscal administration is the post-audit, which occurs after the money has been spent. Montana has no true post-audit but does conduct "examinations" of some departments and institutions. In Montana, this responsibility has been assigned to offices in the executive branch, although there is a definite national trend toward vesting the post-auditing function in an office responsible only to the legislature.

The Council devoted most of its time to the third phase, that of the controls and procedures involved in the expenditure of state funds. At the beginning of the study, every step in the entire spending process in the several offices involved was set out in detail on a series of flow charts. Duplication of effort in the processing of claims was immediately apparent and the remainder of the interim was devoted to formulating recommendations to simplify this process.

In addition to the claim approval process, the Council also reviewed a proposal to prepare warrants on existing IBM equipment in the office of the state controller. A possibility of substantial savings in salaries was apparent; however, the Council concluded that a strengthening of the post-audit should precede the transfer of warrant writing to the office responsible for claim approval.

* * *

The Council acknowledges the cooperation of the following state agencies who made available the information necessary to formulate the recommendations contained in this report: State Board of Examiners; State Controller; State Auditor; State Treasurer; State Examiners; and Attorney General. The Council also acknowledges the assistance of the International Business Machines Corporation which provided assistance in gathering cost data when the use of automatic accounting equipment was involved.

Chapter IV.

CLAIM APPROVAL PROCEDURES

Summary of Present Procedures

With few exceptions, claims against the state of Montana are eventually referred to the Board of Examiners' office for approval. Usually, the department making the expenditure sends two copies of the claim directly to the Board of Examiners' office. If the claim is a charge against a purchase order, however, it is first sent to the Purchasing Division of the Controller's office for clearance. When the claim is received by the Board of Examiners' office it is numbered consecutively, and in some cases is checked cursorily. The claim number is posted in a claim register. Two claim registers are maintained; one for the general fund and one for all other funds. The date received, the file number, the name of the payee, the amount, the date passed for payment, and the claim number are all eventually posted on these registers by Board of Examiners' personnel; however, no dollar control is maintained.

After initial registration a carbon copy of the claim is sent to the Controller's office to be cleared for adequacy of funds and to be posted. In the Controller's office the claim is sorted by transaction and coded according to claim number, department, amount, nature of expenditure, fund, etc. and then sent to the machine room for IBM posting of appropriation and fund accounts. An empty numbered basket is returned to the Board of Examiners signifying that the corresponding original claims retained by the Board have been cleared. After a new claim number has been recorded on the claim and in the claim register, the claim is completed by hand writing and sent to the Auditor's office for preparation of the warrant.

Duplication in Claim Handling

	Sort	Adding Machine	Register	Examine	Post	Number
Board of Examiners	X		X	X		X (2)
Controller	X	X	X	X	X	
Auditor	X	X		X	X	X
	3	2	2	3	2	3

In addition to the categorical duplication shown by the chart above, there is duplication in the transmittal of claims. They must be sent from the Board of Examiners' office to the Controller's office, back to the Board of Examiners' office and to the Auditor's office. In the case of claims arising from purchase orders, an additional round trip between the Controller and Board of Examiners is made.

Apart from the processing of routine claims referred to above, the personnel of the Board of Examiners also conduct a number of functions related to claim approval. Examples are the processing of unliquidated claims which sometimes require hearings by the Board of Examiners (See definition of "unliquidated claim" on p. 33); the processing of claims arising out of contracts for state buildings under the jurisdiction of the Board of Examiners; the checking of payrolls against personnel files for unauthorized increases in salaries of executive personnel; and the processing and approval of requests for out of state travel.

Practices in Other States

In California the Controller's office presently checks all claims before payment. The office ascertains that (1) all requirements of law with respect to expenditures have been met, (2) it checks the clerical accuracy of the claim, schedules and supporting documents, (3) makes tests of the mathematical accuracy of the supporting documents, (4) determines that the claim is in proper legal form and is based on the signature of a properly authorized agency representative, (5) it determines that the appropriation to be charged is correctly shown on the claim schedule and (6) that the appropriation is adequate and available to the agency presenting the claim.

The Rhode Island law providing for pre-auditing of claims states "the pre-auditing conducted by the State Controller shall be purely ministerial, concerned only with the legality of the expenditures and the availability of the funds, and in no event shall the State Controller interpose his judgment regarding the wisdom of expediency of any item or items of expenditure."

Evaluation of Present Procedures

Even though the Board has been assigned, by statute, the responsibility for approving all claims, it is quite apparent that, (1) the Board of Examiners itself does not examine all claims and, (2) the Board of Examiners' staff does not examine all claims. The volume of about 10,000 claims a month sent to the Board of Examiners' office obviously precludes any real examination. Furthermore, some departments, because of statutory or customary exemption, do not send *any* claims through the Board for processing. Four of these departments are: Liquor Control Board, Department of Public Welfare, Public Employees Retirement System and the Teachers Retirement System.

The supposition that all claims are processed by the Board of Examiners' office and evaluated as to correctness, legality and propriety of expenditures diffuses responsibility for the proper check of claims presented for payment. The primary responsibility for the preparation and verification of claims, according to most authorities, lies with the spending agency. Only that agency has all of the facts and documents available for a satisfactory check. If internal control at the agency level is not adequate, subsequent auditing or checking cannot completely make up for the deficiency.

The sense of responsibility on the part of agency personnel for control of expenditures is diluted, because to some extent, the agencies rely on the Board of Examiners to catch errors in the checking and preparation of claims. However, the present procedure does not prevent the passage of erroneous or illegal claims and may, in fact, encourage it. The illusion has been created that all claims against the state are scrutinized by a central office resulting in some complacency on the part of legislators as well as abdication of responsibility by department heads who assume that if the claim is erroneous the Board of Examiners will not approve it.

On the other hand, some departments, realizing that no examination is in fact made, may submit erroneous, illegal or even fraudulent claims. Thus, Board approval, once granted, allows agencies to "pass the buck" by defending improper expenditures as having been "authorized" by the Board of Examiners. The Board of Examiners' "examination" of claims appears to be a deterrent to the strengthening of controls at the agency level because of the reliance placed on their claim-checking procedures.

The steps presently observed in the Board of Examiners' office, which include two numberings of each claim, two registrations of each claim, and a handwriting completion of each claim, serve no apparent useful purpose. They are performed today because the Legislature assigned them by statute in 1891.

Ex Officio Capacity of Board Members

While claims processed by personnel of the Board of Examiners' office are seldom brought before the Board, the Board nevertheless meets several times a week to consider the few claims referred to it as well as to approve the routine requests for out of state travel and salary increases and perform its various other duties. Much has been said and written about service on ex officio boards by elected officials.

While little reference to the Board of Examiners is found in the Proceedings and Debates of the Montana Constitutional Convention, the state of Utah adopted a board patterned after Montana's. Judging from the debate in the Utah Constitutional Convention, the only apparent reason for creating the board was to insure enough work for the elected officials serving thereon. "They have their duties to perform, it is true, but I undertake now to say that I believe you will find when the state government goes into operation that fully one-half the time of the state officers will be unemployed. You will not give them employment in the purely functionary duties of the state government alone."¹ Regardless of the intent of the framers of the constitution, no one could now argue seriously that enough work does not exist for these three offices apart from service on ex officio boards. "It must be apparent to anyone that it is physically impossible for the governor to perform all the duties devolving upon the chief executive of the state and to serve intelligently upon all these boards and commissions."²

Historical Studies of Board of Examiners

The operation of the Board of Examiners has been commented on time and time again by various Montana governmental study groups:

*The state board of examiners is composed of the governor, secretary of state, and attorney general. This board has much power and many duties. . . . They must examine all claims against the state except salaries or compensation fixed by law. As these claims amount to twelve or fourteen hundred per month, it is out of the question for the board to personally audit these bills and this work is delegated to a clerk who has neither the time nor facilities for ascertaining whether or not the money is being judiciously expended. In order to relieve the state board of examiners of many duties which they are physically unable to perform and leave them more time to attend to the duties of the office to which each has been elected, a constitutional amendment has been submitted to be voted on at the next election. If this amendment carries, the next legislative assembly will then be able to create a state board of administration who will then assume all of the duties now imposed on the state board of examiners, and the business of the state can be handled in a more efficient and business-like way.*³

Twenty-two years later a legislative committee expressed a similar opinion:

In Montana the pre-audit of claims is cumbersome and is duplicated by different departments.

Signatures of at least two members of the board of examiners' are required by all claims before being presented for payment. This requirement is merely a gesture, since in practice a rubber stamp is used for the purpose in the office of the board of examiners. The board of examiners' procedure is another step through which claims must pass before being presented for payment. It serves no purpose other than slowing up the payment of claims.

¹ Proceedings of the Utah Constitutional Convention, Vol. II, p. 1015.

² Report of the State Efficiency & Trade Commission to Gov. S. V. Stewart, Nov. 1, 1919, p. 7. At this time the Governor served on twelve such boards and commissions, four less than today.

³ *Ibid*, p. 7.

*One of the specific recommendations of this committee is as follows:
We further recommend . . . the appointment by the governor and under
his direct supervision a controller to have charge of all fiscal affairs of
the state of Montana.*⁴

Griffenhagen and Associates recommended in 1942 to the Governor's Committee on Reorganization and Economy that a department of finance, headed by a director of finance appointed by the governor, undertake, among other things, the pre-audit of expenditures being conducted by the Board of Examiners.⁵ This recommendation was later passed on to the Twenty-eighth Legislative Assembly in the following form:

"The plan of organization should provide for the coordination of all the administrative functions in the financial management of the state's affairs through a single agency under a single executive officer, to permit the integration of financial procedures."⁶

Conclusions and Recommendations

An impression has existed that the constitution requires the Board of Examiners to examine all claims. A recent Attorney General's opinion has clarified the constitutional provision containing the grant of power to the Board of Examiners. The opinion, dated January 4, 1960, states, "It is, therefore, apparent from these rulings of our Supreme Court that the duty to examine unliquidated claims is placed in the State Board of Examiners by our Constitution and may not be changed by statute. The duty to examine liquidated claims is now placed in the State Board of Examiners by statute. Since these statutes are always subject to change by the legislature, this duty could be placed, by a proper statutory enactment, in some other department."

An unliquidated or unsettled claim is defined by statute (Sec. 82-1113, R.C.M., 1947) as a claim, the settlement of which is not otherwise provided for by law. Liquidated claims, on the other hand, are described in *Fitzpatrick v. State Board of Examiners*, 105 Montana 234, as applying "to those amounts which have been fixed specifically by contract or by any department of the government having authority to fix them." Examples of unliquidated claims would be certain claims for refunds for the overpayment of taxes and for personal injuries inflicted by a department or subdivision of state government.

The Council recommends that the State Controller be given statutory responsibility to pre-audit claims, ascertaining that (1) the proper authorizing signature is present, (2) the claim and supporting documents are mathematically and clerically accurate, (3) the proper appropriation, account, and fund is charged and that the appropriation is available and adequate, and (4) the expenditure is not illegal. The funds of the state of Montana would be far better protected under this system than they presently are.

The present system supposedly provides a pre-audit which questions the propriety or wisdom of the expenditure. If the pre-audit only covered the four points above, it would purport to do less, but would actually accomplish more, than the present system. There is general agreement among authorities that the pre-audit should never be used as a means to substitute the judgment of the pre-auditor for the decisions of departmental officials. If a greater measure of fiscal control is wanted, it should be provided by an independent post-audit.

The proposed system would not entail a transfer of power from the Board of Examiners' to the State Controller but a transfer of certain routine and ministerial duties from personnel in the Board of Examiners' office to personnel in the State Controller's office and to the spending agencies themselves.

House Journal of the Twenty-seventh Legislative Assembly, 1941, p. 401. (Report of Joint Committee on State Governmental Organization.)

General State Organization, (Report No. 58) pp. 43-44.

State of Montana Reorganization Report, January 4, 1943, p. 93.

Twenty-five percent of all claims arise from purchase orders and these claims are presently pre-audited in the Controller's office as recommended above. Requirements (1) and (3) above are now fulfilled on all claims by personnel in that office. Items (2) and (4) are partially accomplished on a "spot-check" basis. Therefore, it would only remain for the Controller to improve or enlarge his existing pre-auditing in these two categories on 75% of the claim load. A spot-check of clerical and mathematical accuracy would probably suffice. The question of legality would only arise infrequently—an example would be to insure that the proper statutory allowance was reported on travel claims (which only amount to about 10% of the claim load). These added duties would become part of an existing assembly line processing procedure. As a result of reducing the handling and transmittal of claims, processing time would be reduced and payment would be more prompt.

In addition to the processing of routine claims, several functions performed by the board of examiners which are germane to claim examination and approval should be removed from that office.

1. Deficiency claims should be certified by the controller and forwarded to the governor via the budget director for transmittal to the legislature. (See Section 2 of the bill in *Appendix G*.) At the present time the board of examiners reviews all deficiency claims.

2. Requests for permission to draw on a future fiscal year's appropriation should also be made the responsibility of the governor. Such functions are closely intertwined with budgeting, and were originally assigned to the board of examiners when it was responsible for preparing the biennial budget. Now that budgeting is the responsibility of the governor, such allied responsibilities should follow. Neither the board members nor their staff have available the necessary budgeting information on which to base such decisions. Legislation to implement this recommendation can be found in *Appendix F*.

3. State board of examiners' review of out of state travel requests would also seem unnecessary. The present board of examiners' clerk cannot recollect the board of examiners' refusing an out of state travel request. This requirement has quite obviously not served as a brake on out of state travel. Each request necessitates a letter from the requesting department, consideration of the request at a board meeting and reply by the board. Departmental administrators should accept the responsibility of determining whether or not out of state travel is desirable and necessary. The claim finally submitted should be signed by the department head and it would be his sole responsibility to defend the necessity of such travel to the budget director or the legislature. If desirable, an annual or biennial report summarizing out of state travel by departments could be made available for the legislature. Section 11 of the bill in *Appendix H* implements this recommendation.

4. Board of examiners' approval of the printing of biennial reports is not desirable. The board is given this authority by statute (59-703, R.C.M., 1947), but in conflict is section 82-1916, R.C.M., 1947 which gives the governor the power to approve the printing of such reports and to modify them and print them in one volume if he chooses. The chief executive should be allowed to determine which reports of executive agencies are to be printed. See Section 7 of the bill in *Appendix H* for legislation.

5. The board of examiners is granted general supervisory powers over many activities of the state purchasing agent. Since the creation of the office of state controller the board has discontinued most of this supervision. It does, however, go through the motions of approving capitol purchases. There is no need for continuing these statutes in force. The board does not have the staff nor necessary information to properly evaluate the purchase of capital items. Little, if any, additional control is gained. See sections 1-9 of the bill in *Appendix H*.

The board of examiners would still retain several governmental functions. One would be the processing of unliquidated claims, the number of which would probably not exceed six a year. Since the board of examiners is primarily responsible for letting or approving building contracts and approving bond issues, all claims arising out of such contracts should be approved by the board of examiners prior to final processing by the controller. The board of examiners should also continue to approve claims for premiums for insurance on state automobiles and buildings. A number of miscellaneous activities such as the work of the consolidated boards, the supervision of the custodian's office and the processing of requests to increase salaries of personnel in executive departments would also remain in the board of examiners' office.

The board of examiners is ex officio a "Board of Supplies" and "Furnishing Board" with certain duties relative to the control and maintenance of physical properties. However, the present statutory duties (82-1127, R.C.M., 1947) to contract for legislative supplies and to take inventories have been transferred to the state controller (82-1906 and 82-1912, R.C.M., 1947). The remaining duty to "hire and furnish state offices" has been spelled out in a separate statute. (Section 10 of bill in *Appendix H.*)

The Council considered recommending that the board of examiners be divested of their statutory power to "fix and designate the number, compensation, term and tenure of office of all assistants, deputies, agents, attorneys, administrators, engineers, experts, clerks, accountants, stenographers and executive attaches of all civil executive state offices" and allowing each department head to assume responsibility for the salaries of personnel in his department.

The board seldom refuses a request to increase personnel or salaries and apparently does not have the facilities to adequately investigate such requests. However, the Council believes that some centralized personnel control is desirable. Even though the present system is an observance of the form and not the substance of personnel control, the Council recommends that it be maintained until an effective personnel system is activated.

Dollar Savings

The recommendation to transfer claim examination responsibility to the office of State Controller is intended to accomplish these ends:

- (1) Consolidation of financial processes.
- (2) Assumption of financial responsibility by department heads.
- (3) Elimination of ex officio duties of elected officers.
- (4) Centralization of authority in an office responsible to the Governor.

In addition, a reduction in governmental expense is anticipated.

Below is a list of Board of Examiners' personnel involved in claim processing:

Title	Annual Salary Sept., 1960.
Executive Clerk	\$8,000.00
Assistant Clerk	6,600.00
Ass't. Clerk & Ins. Clerk	7,920.00
Stenographer	4,800.00
Clerk Typist	3,900.00
Registration Clerk	4,500.00
Registration Clerk	3,000.00

If claims were no longer processed in the office, at least two registration clerks and one assistant clerk could be eliminated at a savings of over \$14,000. When remaining personnel are adjusted to the reduction of activity other personnel reductions could be made. There would be additional savings in office supplies and office space.

This savings would be paritally offset by personnel increases in the Controller's office. Two additional claims examiners at \$250-\$275 per month for an annual cost of \$6,000-\$6,600 might be necessary additions to the Controller's staff. If the claim form is simplified, as it should be, and if the Controller is only required to pre-audit as suggested by this report, salary increases would not exceed \$6,000 and might well be less. A minimum net annual savings of \$8,000 would be possible; however, if money savings should not materialize, additional fiscal control and the expediting of claim approval would be a significant improvement.

In carrying out these duties the Controller would be given statutory authority to promulgate rules governing departmental preparation and submittal of claims and would be allowed to prescribe a new claim form.

The Council also recommends that the State Controller be appointed by the Governor, be responsible to the Governor and serve at the pleasure of the Governor. (See bill in *Appendix I.*) It was apparently the intent of the drafters of the bill creating the office of State Controller that he be responsible in part to the legislature. In effect, however, the State Controller has statutory responsibility to no one, and the eight-year term effectively removes the office from the sphere of gubernatorial authority. The primary responsibilities of the office involve the processing of expenditures for the executive branch of government and, consequently, direct legislative control of the office is not desirable.

The Council believes that a more responsible and accountable government can best be attained by vesting the chief executive officer of the state with direct authority over most state agencies. It is plainly the intent of the Constitution that the Governor have such powers.

Chapter V.

A NOTE ON POST-AUDITING

The Council limited its study of the fiscal process to the expenditure phase; however, because responsibility for the post-spending examination of accounts is partially in the hands of the state controller, some adjustment will be necessary to prevent an over-concentration of responsibility in that office.

Statutory responsibility for post-spending examinations is divided between two departments. The state controller examines custodial and educational institutions, including the units of the University of Montana, while the state examiner examines six departments specified by statute "and all other state officers having the collection or handling of state money."

About thirty departments, generally limited to those which collect large sums of money, are examined by the state examiner. Both the state examiner and state controller limit their investigations to receipts, thereby excluding the entire expenditure process. These examinations often involve only cash reconciliations and a checking of trial balances, although in the case of larger departments the state examiner sometimes conducts a more detailed inquiry.

While no detailed recommendations to overhaul the post-auditing system are contained in this report, a comment on post-auditing practices in other states may be of interest to members of the legislature. About half the states have vested responsibility for post-auditing in an agency in the legislative branch; often these legislative auditors are responsible to interim committees which meet periodically to review the audit reports. The remaining states have provided for some sort of examination by an executive agency, sometimes under the supervision of an appointed official and sometimes under the elected auditor. There is, however, a national trend toward vesting the legislative branch with responsibility for conducting its own post-audit of governmental agencies. The reasons for that trend have been summarized by one writer as follows:

... it is very important that the legislature have a post-audit agent who can render current and accurate reports on what the executive branch is actually doing with the funds which the legislature has appropriated. This elementary check over the executive is found in far too few states. Certainly the evaluation of what agency X should have in the forthcoming fiscal year should be based in part on the use the agency made of the funds it was given in the previous year. . . . It also might want to know not only whether the money was spent honestly and for the purposes set out in the appropriation act but also whether the agency made efficient use of its funds. This is a much more difficult question for the auditor to answer and might require considerably more than the standard fiscal audit. Yet, with the proper staff a good auditor might be able to come up with a reasonable estimate. Even if the legislature does not wish to push its inquiry to this point, it certainly cannot act with any degree of effectiveness unless it can get an accurate picture of what the agency spent in the last fiscal period and for what purpose these funds were used. To be sure, the Governor may include such a report in his budget or if it is not found in the budget, it may perhaps be found in the elected auditor's report, . . . or it might be found in the elected comptroller's reports. However, the legislature should not be forced to depend on these possible sources for its fiscal information. It has a right to get a complete, unbiased financial picture of state governmental operations, and, human nature being what it is, there is some reason to expect that its best chance of getting such a picture might be from its own agent.¹

¹ Coleman B. Ransone, *The Office of Governor in the United States*, (University of Alabama Press, 1956), pp. 283-84.

The specific problem confronting the Council, however, involved only the adjustment necessary to assign the pre-audit and post-audit functions to separate offices. If the responsibility for pre-auditing and approving claims is added to the accounting duties of the controller as this report recommends, the examination of institutions should be assigned to another office; these examinations should not be performed by the same agency that keeps the accounts, thereby concentrating too much of the fiscal cycle in one office.

Recommendation

The Council recommends that the responsibility for auditing the University units and the custodial institutions be transferred to the office of the state examiner. That office is conducting similar examinations of other state agencies and could easily absorb the added functions.

After review of the results of the University audit completed under the direction of the state examiner for the thirty-sixth legislature, the Council feels that because of the more analytical approach in an annual audit it will be much more valuable than the somewhat superficial quarterly examination. Therefore, Section 82-1014, R.C.M., 1947, which provided for that audit is recommended for retention with minor amendments. The statute requiring the controller to examine institutions every three months should be repealed. (See Bill in *Appendix J*.)

The controller's office estimated the expense of the quarterly examinations at approximately \$17,000 annually, and, therefore, the appropriation for that office should be adjusted accordingly. The state examiner could conduct annual audits of the University units and all institutions for about \$23,000 annually and, therefore, should be appropriated that additional amount. (The difference in cost is primarily due to a higher salary scale in the examiner's office.) In addition, the chief of the accounting division of the controller's office would be relieved of the supervisory duties involved and could possibly assume additional duties arising from the transfer of the claim approval function to that office.



APPENDIXES





Appendix A

.....JOINT RESOLUTION NO.

INTRODUCED BY.....

A JOINT RESOLUTION OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO DEVELOP A GENERAL PLAN FOR THE REORGANIZATION OF STATE GOVERNMENT FOR FUTURE GUIDANCE, TO MAKE SPECIFIC RECOMMENDATIONS FOR THE CONSOLIDATION AND ELIMINATION OF STATE AGENCIES AND TO REPORT ITS FINDINGS TO THE THIRTY-EIGHTH LEGISLATIVE ASSEMBLY.

WHEREAS, the governmental powers of the state of Montana are dispersed among more than 100 state agencies, boards and offices; and

WHEREAS, it appears that many of these state agencies, boards and offices are unnecessary and result in inefficiency and a lack of centralized control in the administration of public affairs as well as a lack of economy in the expenditure of public funds; and

WHEREAS, there appears to be an increasing public demand for a reorganization of state government and for the continued consolidation or elimination of state agencies, boards and offices,

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the legislative council is requested to continue its study on governmental organization and develop a general plan for reorganization of the state government for future guidance; and

BE IT FURTHER RESOLVED, that the legislative council make specific studies to determine which agencies, boards or offices should be immediately eliminated or consolidated; and

BE IT FURTHER RESOLVED, that the legislative council report its findings and recommendations to the thirty-eighth legislative assembly, together with such bills and resolutions as may be necessary to implement its findings.

Appendix B

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE MONTANA POULTRY IMPROVEMENT BOARD AND TRANSFER THE DUTIES OF SAID BOARD TO THE COMMISSIONER OF AGRICULTURE BY AMENDING SECTIONS 3-2201, 3-2202, 3-2204, 3-2205, 3-2207, 3-2209, 3-2211 AND 3-2212, R.C.M., 1947, AND BY REPEALING SECTION 3-2203, R.C.M., 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. The Montana poultry improvement board is abolished. All records and property, including unexpended appropriations, and any other moneys of the Montana poultry improvement board are transferred to the department of agriculture.

Section 2. Section 3-2201, R.C.M., 1947, is amended to read as follows:

"3-2201. (matter deleted) *The commissioner of agriculture shall have the following powers and duties:*

(1) To promote the welfare of the poultry industry in Montana by: (a) determining dependable sources from which poultry may be purchased; (b) co-operating with other state and federal agencies in programs which will advance, promote, and improve the poultry industry in Montana; (c) improving poultry breeding in Montana by certification of the systematic breeding programs of the various hatcheries within the state; (d) co-operating with the Montana livestock sanitary board in controlling and eradicating communicable and infectious diseases of poultry; (e) by systematic inspection of chick dealers, hatcheries and hatching-egg-producers, engaged in marketing poultry and poultry products.

(2) To act as the official state agency for Montana in co-operation with the animal and poultry research branch, U. S. department of agriculture, for the purpose of furthering the objectives and supervising the state's participation in the national poultry improvement plan. (matter deleted)

The commissioner of agriculture shall appoint a poultry advisory board consisting of the extension specialist on poultry, Montana State College, and two other members who shall be competent and experienced poultrymen, who shall be the owners or operators of commercial poultry hatcheries. The commissioner may call on this board from time to time for advice in administering the poultry improvement program."

Section 3. Section 3-2202, R.C.M. 1947, is amended to read as follows:

3-2202. As used in this act unless the context otherwise requires, (matter deleted) "commissioner" means the (matter deleted) "commissioner of agriculture".

'Breeder' means any person, firm, corporation or association that breeds, handles or deals in chickens, ducks, geese, turkeys or other domestic fowl.

'Hatcher' means any person who is in the business of hatching the eggs of chickens, ducks, geese, turkeys or other domestic fowl by natural or artificial means.

'Distributor' means any person, who is in the business of distributing, selling, or otherwise disposing of to the public of baby, young or other chickens, ducks, geese, turkeys or other domestic fowl, or eggs for hatching purposes including what is known as 'over the counter sale' of baby chicks.

'Hatching-egg-producer' means any person who keeps poultry and from such poultry produces eggs for sale or other disposal for hatching purposes.

'Poultry' means chickens, ducks, geese, turkeys or other domestic fowl."

Section 4. Section 3-2204, R.C.M. 1947, is amended to read as follows:

"3-2204. (matter deleted) *The commissioner is authorized and directed to formulate and adopt a plan or plans whereby hatchery, baby chick and/or poult dealers and hatching-egg-producers shall be inspected by employees of the (matter deleted) department of agriculture. (matter deleted)*

No one shall be refused a license or have his license cancelled under this act unless and until he has been given an opportunity to have a hearing on the matter before the (matter deleted) *commissioner*. The person concerned may obtain same by submitting a request to the (matter deleted) *commissioner* for such hearing. The (matter deleted) *commissioner*, in setting the time for hearing shall give at least twenty days' notice of said hearing to such person. The (matter deleted) *commissioner* will adopt reasonable rules and regulations governing the conduct of hearings and shall specifically provide that any person requesting such hearing be permitted to be represented by legal counsel.

The (matter deleted) *commissioner* may adopt a standard breeding plan for accreditation and certification sponsored by the United States department of agriculture or any other plan sponsored by said department and to cooperate with said department in matters of poultry improvement, sanitary provisions and indemnity in case of infectious disease. The (matter deleted) *commissioner* is further authorized to prescribe and collect fees for inspection and supervision and to prescribe and furnish labels bands and certificates of accreditation and certification and such other supplies as may be necessary; and to prescribe and collect fees for the same. The (matter deleted) *commissioner* is further authorized to do such other things as (matter deleted) *he* may deem needful and expedient to improve poultry breeding, poultry sanitation, and practices, and to give effect to this act."

Section 5. Section 3-2205, R.C.M. 1947, is amended to read as follows:

"3-2205. No person shall hereafter engage in the business of a hatchery, baby chick and/or poult dealer, salesman, or hatching-egg-producer in Montana, without first securing from the (matter deleted) *commissioner* a license to engage therein, which license shall expire on the first day of January of each year, except in cases of flock owners, and in those cases the license shall expire twelve (12) months after the last official pullorum test was conducted by the (matter deleted) *commissioner*.

Licenses will be issued only upon payment to said (matter deleted) *commissioner* of such annual fees as may be fixed by said (matter deleted) *commissioner* for each of the said occupations, not exceeding, however, the amounts herein set forth, to-wit: (a) hatcheries—under 50,000 capacity—\$10.00; (b) hatcheries—over 50,000 capacity—\$25.00; (c) baby chick and/or poult dealers and salesmen—\$5.00; (d) breeders, hatching-egg-producers, the sum of \$1.00 up to 200 breeder hens; \$2.50 up to 400 breeder hens; \$5.00 up to 800 breeder hens; \$7.50 up to 1,250 breeder hens; \$10.00 over 1,250 breeder hens per year."

Section 6. Section 3-2207, R.C.M. 1947, is amended to read as follows:

"3-2207. *Ninety-five per cent (95%) of all fees collected under this act shall be deposited in the state treasury to be credit of the Montana poultry improvement (matter deleted) fund, and five per cent (5%) of all such fees shall be deposited in the state treasury to the credit of the general fund.*"

Section 7. Section 3-2209, R.C.M. 1947, is amended to read as follows:

"3-2209. All poultry and products sold or shipped under the authority of this act shall be uniformly labeled with designs prescribed and furnished by the (matter deleted) *commissioner*, provided that all labeling for testing, approval and accreditation as to disease shall be first approved by the Montana livestock sanitary board."

Section 8. Section 3-2211, R.C.M. 1947, is amended to read as follows:

"3-2211. In his discretion the (matter deleted) *commissioner* may cancel any certificate of accreditation or certification issued under (matter deleted) *his* authority. (matter deleted) Likewise the secretary and executive officer of the Montana livestock sanitary board may cancel any certificate of testing, approval or accreditation issued under the authority of this board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor."

Section 9. Section 3-2212, R.C.M. 1947, is amended to read as follows:

"3-2212. Violation of any of the provisions of this act shall be a misdemeanor; and as additional or alternative penalties, the (matter deleted) *commissioner*, may revoke any license issued, and may by injunction restrain the continuance of any operations covered by this act."

Section 10. Section 3-2203, R.C.M. 1947, is repealed.

Appendix C

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO ABOLISH THE STATE BOARD OF HAIL INSURANCE AND TRANSFER THE DUTIES OF SAID BOARD TO THE COMMISSIONER OF AGRICULTURE BY AMENDING SECTIONS 82,1501, 82-1503, 82-1505, 82-1506, 82-1507, 82-1508, 82-1509, 82-1511, 82-1514, 82-1516, 82-1517, 82-1518, AND 82-1519 R.C.M. 1947; AND BY REPEALING SECTION 82-1515, R.C.M., 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. The state board of hail insurance is abolished. All records and property, including unexpended appropriations, and any other moneys of the state board of hail insurance are transferred to the department of agriculture.

Section 2. Section 82-1501, R.C.M. 1947, is amended to read as follows:

"Section 82-1501. (matter deleted) *The commissioner of agriculture is the administrator of the state hail insurance program and is empowered to make such rules and regulations as (matter deleted) he may from time to time find practical, necessary and beneficial for the conduct of (matter deleted) said program, subject to the provisions of this act. (matter deleted) He shall have full charge of said (matter deleted) program as herein provided for; (matter deleted) he shall prepare blank forms for all purposes necessary, proper and incidental to the effective operation and enforcement of this act, and furnish such forms to all public officers respectively charged with the performance of any official duty in connection therewith; (matter deleted) he shall prepare a special form outlining the purposes, scope and benefits of this act in furnishing protection against loss by hail, at the actual cost of the risk to all taxpayers who may elect to become subject to the provisions of this act. such form to be submitted by the county assessor of each county at the time in which the regular assessments of property are by such assessors made, to each farmer in each county in the state engaged in growing of crops subject to injury or destruction by hail, on which forms each such farmer taxpayer shall signify whether he desires to become subject to the provisions of this act or not.*

(3) Every such farmer taxpayer who signifies his desire to become subject to the provisions of this act, shall file in the office of the county assessor the blanks above referred to, properly filled out not later than August 15, and shall be chargeable with the tax on lands growing crops subject to injury or destruction by hail, hereinafter provided for, and shall share in the protection and benefits under the hail insurance provisions of this act. Such application for hail insurance shall be in full force and effect at noon the day following the acceptance of the same by the county assessor. Provided, however, that this act shall not be so construed as to empower anyone except the actual owner of the land to make such land subject to the hail tax provided in this act."

Section 3. Section 82-1503, R.C.M. 1947, is amended to read as follows:

"Section 82-1503. (1) No owner of land who has more than one (1) year's delinquent taxes on his land shall be allowed hail insurance under the provisions of this act, unless his application is accompanied by cash payment for the amount that would be due on said application in the event of a maximum levy for that year.

(2) Provided, however, that when an applicant for hail insurance tenders cash for the same to the county assessor, he shall be allowed a discount of four percentum (4%).

His hail insurance shall be issued upon said cash payment less the four percentum (4%) mentioned. The charge for the insurance shall be based on the maximum rates shown on the application for hail insurance. If the current rates are reduced later the (matter deleted) *commissioner* shall arrange for the proper refund to the insured. All cash received by the assessor shall be promptly turned over to the county treasurer who will furnish the insured with a current receipt and place the money in the hail insurance fund.

(3) Provided, however, any grain grower unable to secure state hail insurance under the provisions of this act on account of delinquent taxes, or for other reasons, may make application to the county assessor of his respective county and said county assessor is hereby authorized to receive and accept such applications where the applicant furnishes a sufficient crop lien subject only to a seed lien; provided that such crop lien shall be accepted only under such rules, regulations and requirements as may be prescribed by the (matter deleted) *commissioner* and providing that the (matter deleted) *commissioner* may cancel any hail insurance accepted in violation of said rules, regulations and requirements. Upon receipt of said application the county assessor shall make record thereof and shall file the original in the office of the clerk and recorder of said county. He shall also cause an assessment for the proper amount to be made on the assessment rolls in the same manner provided for in the case of other special levies or assessments.

Provided, further, that no tenant who has delinquent hail insurance which was secured by a crop lien only and not secured by real estate shall be allowed another policy in any succeeding year until he pays his delinquent account or accounts, or until he pays cash for the current hail insurance."

Section 4. Section 82-1505, R.C.M. 1947, is amended to read as follows:

"Section 82-1505. Because of the unusual or unexpected variation in the severity of damage to grain crops which occur from year to year and in order to enable the state hail insurance fund to spread the effect of these variations more evenly over all years, the (matter deleted) *commissioner* is hereby authorized to negotiate for and to secure reinsurance of a part of the risk in any year when the need for such reinsurance appears advisable. (matter deleted) The (matter deleted) *commissioner* is hereby authorized to use moneys from the hail insurance fund for the purchase of such reinsurance whenever it appears (matter deleted) that such reinsurance is necessary and advisable."

Section 5. Section 82-1506, R.C.M. 1947, is amended to read as follows:

"Section 82-1506. (1) A tax is hereby authorized and directed to be levied on all lands in this state growing crops subject to injury or destruction by hail, the owners of which have elected to become subject to the provisions of this act. The (matter deleted) *commissioner* shall annually estimate as near as may be possible, the amount required to pay all losses, interest on warrants and costs of administration, and shall recommend a levy to be made on each kind of land respectively, subject to the provisions of this act, to the state board of equalization. The rates recommended to apply on the lands of owners shall be applied in the same proportions to the crops of those insured on a personal assessment basis. It is hereby provided, however, that such tax shall not exceed in any one (1) year the sum of one dollar and twenty cents (\$1.20) per acre on lands sown to grain crops on nonirrigated lands, and the sum of two dollars and forty cents (\$2.40) per acre on irrigated lands, also it shall not exceed one dollar and twenty cents (\$1.20) per acre on lands producing hay crops; and provided further, that if the tax required to pay the estimated losses, interest on warrants and costs of administration be less than sixty cents (60c) per acre on lands sown to grain crops on nonirrigated lands and one dollar and twenty cents (\$1.20) per acre on irrigated lands, and a proportionate amount on lands sown to hay crops, the (matter deleted) *commissioner* must recommend a tax levy sufficient to raise the full amount thereof.

(2) In addition to the lien created above on the land of the insured, the levy for such hail insurance shall also constitute a lien on the crops insured with the exception that the said crop lien shall not apply to owners of unencumbered land, or on the land or crops of those who pay cash for hail insurance. The applications of these shall not be filed with the county clerk and recorded as provided for in section 82-1503.

The crop lien mentioned above shall be included in all applications for hail insurance and shall be enforced, as provided in sections 82-1509 and 82-1510, against all insured, except those owning unencumbered land or those who have paid cash for hail insurance.

(3) The said board of equalization is hereby empowered and it is made its duty to prescribe such levies annually to be made against lands growing crops subject to injury or destruction by hail which are subject to this act, in accordance with the recommendation of the (matter deleted) *commissioner*. Such tax levies respectively shall be chargeable to the lands of each taxpayer who shall elect to become subject to this act and shall be extended on the tax roll and collected by the officers charged with such duties in the manner and form as are other property taxes and if not paid shall be a lien on the lands against which the same are levied as are other property taxes. Provided, however, that the lien as provided above shall in no way affect mortgages that are of record at the time of the approval of this act. The lien of any mortgage filed subsequent to the passage and approval of this act shall be subsequent to any lien for hail insurance hereafter levied thereon. All applicants securing hail insurance on crop liens as heretofore provided shall be subject to the same charges per acre as provided herein to be made on land. Notice of such assessment shall be mailed to each person insured, by the county treasurer in the same manner as are all other notices of taxes due. Said assessment shall be payable at the office of the county treasurers of each respective county. All insurance levies whether levied against land or in the form of special assessments secured by crop liens, shall be payable in full, and not in semi-annual payments, on or before November 30th of each year in which such levies are made.

(4) The (matter deleted) *commissioner* may establish as many districts as (matter deleted) *he* deems advisable and may maintain maximum rates in various parts of the state which rates shall be commensurate with the risk incurred as nearly as (matter deleted) *he* can determine from past experience or from any records available. The highest of these rates shall be the same as the maximum established herein and the lowest shall not be less than forty-eight cents (48c) per acre on lands sown to grain crops, and a proportionate amount on lands sown to hay crops.

Notice of the various rates established for any year shall be plainly printed on the application for hail insurance, and in any year when the requirements of the hail insurance law as herein provided do not require a levy of the maximum rates as established, then the rates for the year shall be determined and levied by the (matter deleted) *commissioner* for each of the various districts as established, in such proportions as will in (matter deleted) *his* judgment be fair and equitable."

Section 6. Section 82-1507, R.C.M. 1947, is amended to read as follows:

"82-1507. (1) In making the levy provided in the preceding section the (matter deleted) *commissioner* shall provide for:

1. The payment of all expenses of administration, together with all interest owed or to be owing on registered warrants.

2. For that portion of the losses incurred during the current year which are not paid from funds drawn from the reserve fund.

3. For the maintenance of the reserve fund, a part of all of which may be used in any one year for the purpose of paying the costs of administration, interest on the warrants and losses as the same shall be settled and adjusted by the (matter deleted) *com-*

missioner including the losses sustained in any prior year or years under the state hail insurance law during or subsequent to the year 1919 that have not been paid.

4. If at the end of any hail insurance season the (matter deleted) commissioner determines and finds that more funds are accumulating from the current year's levies than were estimated when the levy was made, and which funds are in excess of the need for the payment of losses and expenses and maintenance of the reserve fund, the (matter deleted) commissioner may, at (matter deleted) his discretion, refund to the farmers insured for the said year, on a pro rata or percentage basis the excess of the said fund. (matter deleted) The state auditor of the state of Montana is hereby authorized to draw and issue warrants for the payment of the same.

(2) Each year when the (matter deleted) commissioner makes (matter deleted) his annual levy for the payment of current losses, expenses of administration, and for an addition to the reserve fund if conditions permit, (matter deleted) he shall not increase the levy enough in any year so that such addition to the reserve fund will exceed five per cent (5%) of the maximum risk written for that year and provided further, that the reserve fund shall not exceed the amount of one million two hundred thousand dollars (\$1,200,000.00).

(3) The reserve fund hereby created shall be a continuous fund and the (matter deleted) commissioner is hereby granted the power to draw from said fund such amounts as (matter deleted) he may deem necessary for the purpose of paying costs of administration, interest and losses, and provided further, that whenever there are no unpaid losses for prior years and whenever in any one (1) year the cost of administration, interest and losses for the current year shall be less than the sum of sixty cents (60c) per acre on nonirrigated grains and a proportionate amount on irrigated grains and other crops, the (matter deleted) commissioner shall not draw on the reserve fund for any purpose unless the amount required for the payment of losses for the current year, including interest on warrants and costs of administration shall exceed the amount of the estimate made by the (matter deleted) commissioner."

Section 7. Section 82-1508, R.C.M. 1947, is amended to read as follows:

"82-1508. When any crop insured under this act shall have been destroyed by any other cause than hail, the applicant may, by furnishing the proof required by the (matter deleted) commissioner, cause the crop to be withdrawn from the regular levy of the (matter deleted) commissioner for the current year. Such proof shall be submitted to the (matter deleted) commissioner in accordance with its rules and regulations. Said rules and regulations shall be plainly printed on the applications and policies issued by the (matter deleted) commissioner. They shall provide that the cost for such withdrawn insurance shall be varied as nearly as practical according to the time the insurance is in force and according to the risk carried."

Section 8. Section 82-1509, R.C.M. 1947, is amended to read as follows:

"82-1509. The county treasurer in each county in the state, shall collect all levies made under this act in the same manner as other property taxes are collected and shall keep all moneys collected by him, or for him, for hail insurance in a separate fund to be known as the hail insurance fund, and remit the same to the state treasurer in the same manner as provided by law for the remittance of other moneys due to the state. All county treasurers shall use due diligence in making the collections of the levies provided herein. Also the (matter deleted) commissioner may furnish assistance needed at any time in making collections or may take over the collection of any levy at any time, depositing any collections therefrom with the treasurer of the county where the levy therefor was made. Whenever the amount due on any hail insurance secured by a crop lien is paid

the treasurer shall promptly endorse on the lien on file in the office of the county clerk and recorder the amount paid thereon with the date of payment and such endorsement shall be a satisfaction and release of such lien.

If any tenant becomes delinquent for his hail insurance after having failed to apply for relief as provided by the (matter deleted) *commissioner* under section 82-1508, he may apply to the (matter deleted) *commissioner* for a reduction. If his reasons for requesting a reduction are approved by the (matter deleted) *commissioner*, (matter deleted) *the commissioner* may reduce his charge to not less than one-half the original amount charged."

Section 9. Section 82-1511, R.C.M. 1947, is amended to read as follows:

"82-1511. The state treasurer shall receive all moneys paid to him under this act and shall place same to the credit of a fund to be known as the state hail insurance fund and may from time to time transfer to the hail insurance administrative fund such sums as the (matter deleted) *commissioner* may deem necessary and proper to pay the expenses of administration together with such sums as may be needed to pay all the warrants registered against the hail insurance administrative fund, plus the accrued interest thereon, and shall pay out of such funds on warrants drawn by the state auditor by order of the (matter deleted) *commissioner*. If such warrants be presented and there be no money in the said funds to pay the same, such warrants shall be registered and thereafter bear interest at the rate of four per cent per annum until called for payment by the state treasurer. All interest and earnings obtained by the state treasurer for such moneys shall be credited to the respective funds. If at any time more funds are in the administrative fund than the (matter deleted) *commissioner* estimates are needed for the purposes mentioned above, the state treasurer may on the order of the (matter deleted) *commissioner* transfer such funds back to the hail insurance fund as the (matter deleted) *commissioner* may direct."

Section 10. Section 82-1514, R.C.M. 1947, is amended to read as follows:

"82-1514. That all losses by hail to crops insured under this act shall be reported within three (3) days thereafter by the owner of such crops, his agent or attorney to the (matter deleted) *commissioner*, who shall require the claimant to make a statement of the losses sustained, the cause thereof and such other information as the (matter deleted) *commissioner* may require, on the forms to be provided for such purpose. *The commissioner may appoint the necessary appraisers to assist him in adjusting such losses.*"

Section 11. Section 82-1516, R.C.M. 1947, is amended to read as follows:

"82-1516. (1) In case the party that has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official appraiser then he shall have the right to appeal to the (matter deleted) *commissioner*, provided however, he shall make such appeal by registered mail within four (4) days after such disagreement. Also it is further provided that the (matter deleted) *commissioner* may require the posting of a cash bond of ten dollars (\$10.00) with the request for re-appraisal for the first adjustment. In cases where the (matter deleted) *commissioner* requires the posting of the ten dollar (\$10.00) bond, the (matter deleted) *commissioner* may retain it for the hail insurance fund if no increase is allowed. If an increase is obtained, the (matter deleted) *commissioner* will return the bond to the claimant. In case the adjustor who makes the second appraisal fails to secure an agreement the claimant shall then appoint one disinterested person as appraiser, and the official appraiser shall appoint another person as appraiser, and the two shall select a third disinterested person and the three shall then proceed to adjust the loss (matter deleted) and the judgment of the majority shall be the judgment of said appraisers and shall be binding upon both parties as the final determination of said loss;

provided, however, that if the insured does not recover a greater sum than allowed by the official appraiser in the first instance, he shall pay the expenses of the said three appraisers and their witnesses in making said adjustment, but if he is awarded a larger sum then the same shall be paid by the (matter deleted) *commissioner* out of the hail insurance fund.

(2) If the insured shall be required to pay the expenses of such re-appraisement as above provided, the (matter deleted) *commissioner* is hereby authorized to deduct the amount of such expenses from the amount allowed said insured before making settlement for said loss.

Provided, also, that where any claimant demands arbitration he shall, if required by the (matter deleted) *commissioner*, furnish a cash bond to the (matter deleted) *commissioner* in the sum of twenty-five dollars (\$25.00) which shall accompany his application. If there is not sufficient allowance made to any claimant after arbitration to cover the cost of arbitration without the use of the twenty-five dollar (\$25.00) bond, then the (matter deleted) *commissioner* may use a part or all of said cash bond. Any forfeits so collected shall be placed promptly in the state hail insurance administrative fund. In cases where the claimant secures an increase the bond shall be promptly returned to the claimant.

(3) The (matter deleted) *commissioner* shall examine all reports of appraisers and verify the same, and adjust all losses, and for such purposes may order hearings, subpoena witnesses and conduct examinations and do all things necessary to secure a fair and impartial appraisal of losses by hail.

Section 12. Section 82-1517, R.C.M. 1947, is amended to read as follows:

"82-1517. (1) The (matter deleted) *commissioner* shall, as soon as practicable after the loss has been sustained, arrange for the payment of the losses as follows: From the amount of the loss as adjusted for each claimant the (matter deleted) *commissioner* shall deduct the amount the claimant then owes as delinquent hail insurance tax and the maximum amount assessed as hail insurance tax for the current year, and shall make settlement within forty (40) days from the time loss is sustained in the following manner: By paying, either by registered warrant or otherwise if funds are immediately available, fifty per cent of the total loss as agreed on, less, however, the maximum rate of assessment; balance to be paid at the expiration of the hail season.

(2) The (matter deleted) *commissioner* shall, on or before November first, order the state auditor to draw a warrant for the amount so deducted on the state hail insurance fund, which warrant shall be remitted to the county treasurer of the county in which the tax was assessed. The (matter deleted) *commissioner* shall then order the state auditor to draw a warrant on the state hail insurance fund for the balance of the adjustment which warrant shall be sent to the claimant; provided, however, that in no case shall payment for loss exceed twelve dollars (\$12.00) per acre for grain crops on nonirrigated lands, and twenty-four dollars (\$24.00) per acre on irrigated lands, and not to exceed twelve dollars (\$12.00) per acre on hay crops; provided, further, that no claimant shall receive payment for any loss incurred where said loss does not equal or exceed five per cent (5%) of the total value of the crop insured. Also if the losses in any year should exceed the current levy plus the reserve fund, if any, then the payment of all losses shall be prorated share and share alike among all grain growers having loss claims adjusted and approved, and the unpaid balance of said losses shall be paid out of the reserve fund without interest in such order as the (matter deleted) *commissioner* shall direct, when in the judgment of the (matter deleted) *commissioner* there are in said fund sufficient moneys to provide for the payment of the same and other items payable out of said funds. In any year the (matter deleted) *commissioner* may borrow as needed from any person,

bank or corporation such sum or sums of money as (matter deleted) *he* may deem necessary to carry on the (matter deleted) *program* and for the purpose of paying all warrants as issued.

(3) For any moneys borrowed under the provisions of this act, the (matter deleted) *commissioner* shall cause warrants to be drawn against the state hail insurance fund and said warrants shall bear interest at not to exceed six per cent (6%) per annum and said warrants and the interest thereon shall be paid out of funds (matter deleted) as they are collected from the various counties in the state. The (matter deleted) *commissioner* shall not at any time borrow a total sum greater than the amount of levies as made for taxes for the current year together with such delinquent taxes as remain unpaid on the books of the county treasurer. (matter deleted)”

Section 13. Section 82-1518, R.C.M. 1947, is amended to read as follows:

“82-1518. Any taxpayers or associations of taxpayers engaged in the growing of crops, other than specified herein, or other agricultural or horticultural products subject to injury or destruction by hail, by their individual or joint election filed with and approved by the (matter deleted) *commissioner*, may accept the provisions of this act, and elect to become subject thereto, and in such event such risks may be classified by the (matter deleted) *commissioner* and suitable levies imposed as may be agreed upon by the (matter deleted) *commissioner* and such taxpayers, whereupon such taxpayers shall be entitled to the benefits and protection afforded by the insurance provisions of this act.”

Section 14. Section 82-1519, R.C.M. 1947, is amended to read as follows:

“82-1519. (matter deleted) The (matter deleted) *commissioner* shall each year submit a full financial report to the operations of the (matter deleted) *hail insurance program* to the governor of the state.”

Section 15. Section 82-1515, R.C.M. 1947, is repealed.

Appendix D

COMPARATIVE TABLES — SALARIES OF ELECTIVE STATE OFFICIALS — 1959

Title	Montana Salary	Salaries Other States		Number of States		
		Average	Median	Higher	Same	Lower
Governor	\$14,000	\$18,990	\$17,500	39	0	10
Attorney General	9,500	13,462	12,360	42	0	7
State Auditor	8,000	11,404	10,900	39	3	6
State Treasurer	8,000	11,038	10,000	35	4	10
Secretary of State	8,000	11,437	10,000	38	5	5
Superintendent of Public Instruction	8,500	13,708	12,000	45	0	4
Supreme Court Judges	11,500	17,838	17,500	47	0	2

Note: Comparative figures are for September, 1959 for state officials and May, 1960, for Supreme Court Judges with the exception of those for Montana which reflect salaries not effective until January 1, 1961. Consequently these tables show Montana in a relatively high position because adjustments upward made by several states in the past year are not reflected.

SALARIES PAID IN STATES

GOVERNOR—Average, \$18,990

Median, \$17,500

Higher, 39; Lower, 10; Same, 0.

STATE	SALARY
New York	\$50,000
California	40,000
Pennsylvania	35,000
Illinois	
New Jersey	30,000
Alabama	
Alaska	
Hawaii	
Missouri	25,000
Ohio	
Texas	
Florida	
Michigan	22,500
Colorado	
Iowa	
Massachusetts	20,000
Virginia	
Wisconsin	
Minnesota	19,000
Arizona	18,500
Kentucky	
Louisiana	18,000
Nevada	
Delaware	
New Mexico	
Oregon	17,500
West Virginia	
Connecticut	
Indiana	
Kansas	
Maryland	
Mississippi	
New Hampshire	
North Carolina	15,000
Oklahoma	
Rhode Island	
South Carolina	
Washington	
Wyoming	
MONTANA	14,000
South Dakota	13,000
Idaho	
Vermont	12,500
Georgia	
Tennessee	12,000
Utah	
North Dakota	11,500
Nebraska	11,000
Arkansas	
Maine	10,000

ATTORNEY GENERAL—Average, \$13,462

Median, \$12,360

Higher, 42; Lower, 7; Same, 0.

STATE	SALARY
California	\$26,000
New York	25,000
New Jersey	22,000
Illinois	
Pennsylvania	20,000
Texas	
Florida	
Hawaii	17,500
Alaska	
Virginia	17,000
Wisconsin	
Minnesota	16,000
Louisiana	
Maryland	
Massachusetts	
Missouri	15,000
Nevada	
Ohio	
Tennessee	
Washington	14,000
North Carolina	13,500
Arizona	
Connecticut	
Michigan	12,500
Oregon	
New Hampshire	12,220
Alabama	
Colorado	
Kentucky	
New Mexico	12,000
Oklahoma	
West Virginia	
Indiana	11,500
Iowa	
Mississippi	
Rhode Island	11,000
South Carolina	
Nebraska	10,500
Delaware	
Maine	
North Dakota	10,000
Utah	
MONTANA	9,500
Idaho	
Wyoming	9,000
Kansas	8,500
Vermont	8,000
South Dakota	7,875
Georgia	7,500
Arkansas	6,000

SECRETARY OF STATE—Average, \$11,437

Median, \$10,000

Higher, 38; Lower, 5; Same, 5.

STATE	SALARY
New York	\$20,486
Illinois	
Pennsylvania	20,000
California	19,500
Alaska	18,000
Florida	17,500
New Jersey	17,000
Louisiana	
Missouri	
Ohio	15,000
Texas	
Minnesota	14,500
Oregon	
Michigan	12,500
Kentucky	
North Carolina	
Washington	12,000
Wisconsin	
Indiana	11,500
Massachusetts	
South Carolina	11,000
West Virginia	
Iowa	
Maine	
Maryland	
Mississippi	
Nevada	10,000
New Mexico	
Tennessee	
Virginia	
Wyoming	
Arizona	9,600
New Hampshire	9,516
Utah	9,500
Colorado	
Oklahoma	9,000
Rhode Island	
Vermont	8,500
Alabama	
Connecticut	
Delaware	
Idaho	8,000
MONTANA	
Nebraska	
Georgia	
North Dakota	7,500
Kansas	
South Dakota	6,300
Arkansas	5,000

(Hawaii omitted)

STATE AUDITOR—Average, \$11,404

Median, \$10,900

Higher, 39; Lower, 6; Same, 3.

STATE	SALARY
New York	\$25,000
Pennsylvania	22,500
California	
Illinois	20,000
Hawaii	
Missouri	
Ohio	15,000
Texas	
Minnesota	
Wisconsin	14,500
Connecticut	13,140
Michigan	12,500
Nevada	
New Hampshire	12,220
Florida	
Kentucky	
Louisiana	
New Jersey	12,000
North Carolina	
Washington	
Indiana	11,500
Massachusetts	
New Mexico	11,000
West Virginia	
Alaska	10,900
Rhode Island	10,036
Iowa	
Maine	
Mississippi	
Minnesota	10,000
South Carolina	
Tennessee	
Wyoming	
Arizona	9,600
Colorado	
Maryland	9,000
Vermont	
Virginia	8,500
Oklahoma	8,400
Alabama	
Idaho	
MONTANA	8,000
Nebraska	
North Dakota	
Kansas	7,500
Utah	
South Dakota	6,300
Delaware	6,000
Arkansas	5,000

(Oregon omitted)

STATE TREASURER—Average, \$11,038

Median, \$10,000

Higher, 35; Lower, 10; Same, 4.

STATE	SALARY
Pennsylvania	\$22,500
New York	20,486
Illinois	
New Jersey	20,000
California	19,500
Florida	17,500
Hawaii	
Missouri	
Ohio	15,000
Texas	
Minnesota	14,500
Michigan	
Oregon	12,500
Kentucky	
Louisiana	
North Carolina	12,000
Washington	
Wisconsin	
Indiana	11,500
Massachusetts	
South Carolina	11,000
West Virginia	
Iowa	
Mississippi	
Nevada	
New Mexico	10,000
Tennessee	
Wyoming	
Alaska	9,600
New Hampshire	9,516
Colorado	
Oklahoma	9,000
Rhode Island	
Vermont	
Virginia	8,500
Alabama	
Connecticut	
Idaho	8,000
MONTANA	
Nebraska	
Arizona	
Georgia	
Kansas	
Maine	7,500
North Dakota	
Utah	
South Dakota	6,300
Delaware	6,000
Arkansas	5,000
Maryland	2,500

SUPERINTENDENT OF PUBLIC INSTRUCTION—Average, \$13,708

Median, \$12,000

Higher, 45; Lower, 4; Same, 0.

STATE	SALARY
Ohio	\$25,000
New York	24,000
New Jersey	22,000
California	
Illinois	
Maryland	20,000
Pennsylvania	
Texas	18,500
Florida	
Michigan	17,500
Alaska	
Virginia	17,000
Wisconsin	
Connecticut	16,980
Missouri	16,500
Delaware	
Colorado	16,000
Hawaii	15,500
Louisiana	15,000
Maine	
Massachusetts	14,000
Washington	
North Carolina	13,500
Minnesota	12,750
New Hampshire	12,220
Arizona	
Iowa	
Kentucky	
Nevada	12,000
Oklahoma	
West Virginia	
Indiana	
Nebraska	11,500
Oregon	
Utah	11,202
South Carolina	11,000
New Mexico	10,600
Rhode Island	10,500
Alabama	
Mississippi	
Tennessee	10,000
Wyoming	
Arkansas	9,660
Vermont	9,500
North Dakota	8,700
MONTANA	8,500
Idaho	
Kansas	8,000
Georgia	7,500
South Dakota	6,800

SUPREME COURT JUDGES—Average,

\$17,838; Median, \$17,500

Higher, 47; Lower, 2; Same, 0.

STATE	SALARY
New York	\$36,500
Illinois	
Pennsylvania	30,000
New Jersey	
California	26,000
Alaska	22,500
Delaware	
Hawaii	22,000
Massachusetts	
Connecticut	21,500
Maryland	21,000
Indiana	20,400
Ohio	
Texas	20,000
Washington	
Minnesota	
Virginia	19,000
Louisiana	
Michigan	18,500
Georgia	
Nevada	18,000
Florida	
Missouri	
New Mexico	17,500
West Virginia	
Wisconsin	
Rhode Island	17,000
Oklahoma	16,500
North Carolina	
Oregon	16,000
Arizona	
Arkansas	
Colorado	15,000
New Hampshire	
Tennessee	
Iowa	14,500
Alabama	
Kansas	
Maine	14,000
North Dakota	
South Carolina	
Mississippi	13,500
Nebraska	
Wyoming	13,000
Idaho	
Kentucky	12,000
Utah	
MONTANA	11,500
South Dakota	11,000
Vermont	10,500

SALARIES IN WESTERN STATES

	<u>Governor</u>	<u>Atty. Gen.</u>	<u>Secy. of State</u>	<u>Auditor</u>	<u>Treasurer</u>	<u>Pub. Inst.</u>
Arizona	\$18,500	\$12,500	\$ 9,600	\$9,600	\$7,500	\$12,000
Idaho	12,500	9,000	8,000	8,000	8,000	8,000
Montana	14,000	9,500	8,000	8,000	8,000	8,500
Nevada	18,000	15,000	10,000	12,220	10,000	12,000
New Mexico	17,500	12,000	10,000	11,000	10,000	10,600
North Dakota	11,500	10,000	7,500	7,500	7,500	8,700
South Dakota	13,000	7,875	6,300	6,300	6,300	6,800
Utah	12,000	10,000	9,500	7,500	7,500	11,202
Wyoming	15,000	9,000	10,000	10,000	10,000	10,000
 Average	 \$14,667	 \$10,542	 \$8,767	 \$8,902	 \$8,311	 \$ 9,756
Median	14,000	10,000	9,500	8,000	8,000	10,000
Higher	4	5	5	4	3	6
Lower	4	3	2	3	4	2
Same	0	0	1	1	1	0

RELATIVE POSITION OF SALARIES OF SELECTED MONTANA DEPARTMENT HEADS

September 1, 1959

Chief Budget Officer—\$10,000

More — 27
Less — 8
Same — 3
None — 10

Agriculture—7,500

More — 40
Less — 3
Same — 2
None — 3

Welfare—\$8,400

More — 38
Less — 8
Same — 1

Chief Health Officer—\$14,800

More — 27
None — 22

Revenue and/or Taxation—\$7,000

More — 46
Same — 1
None — 2

Highways—\$12,600

More — 29
Less — 16
None — 1

Adjutant General—\$9,734

More — 28
Less — 19

Labor—\$6,000

More — 45
Same — 2
None — 2

Appendix E

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 59-901, R.C.M. 1947, TO PROVIDE THAT THE GOVERNOR SHALL FIX THE SALARIES OF HEADS OF ALL EXECUTIVE STATE AGENCIES EXCEPT SALARIES OF HEADS OF INSTITUTIONS GOVERNED BY THE BOARD OF EXAMINERS OR BOARD OF EDUCATION, SALARIES OF ELECTED OFFICIALS AND SALARIES APPEARING AS LINE ITEMS IN APPROPRIATION BILLS."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 59-901, R.C.M. 1947, is amended to read as follows:

"59-901. The state board of examiners of the state of Montana shall by resolution, fix and designate the number, compensation, term and tenure of office of all assistants, deputies, agents, attorneys, administrators, engineers, experts, clerks, accountants, stenographers and executive attaches of all civil executive state offices, boards, commissions, bureaus and departments of the state of Montana *below the rank of department head*; provided, however, that an increase or decrease in compensation of any state employee covered by the personnel administration law shall be approved by the personnel commission.

The governor shall fix the salaries of heads of all executive state agencies except the following:

- (1) Salaries of heads of institutions governed by the board of examiners or board of education;*
- (2) Salaries of elected officials;*
- (3) Salaries appearing as line items in legislative appropriation bills.*

However, the governor shall not approve any increase of the salary of a department head that will cause a department to exceed its appropriation or that will result in a deficiency or supplemental appropriation request to the legislative assembly. Any change in salary of a department head shall be authorized by the governor in writing and one copy of such authorization shall be transmitted to the office of the state controller."

Appendix F

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE GOVERNOR MAY AUTHORIZE AN EXPENDITURE DURING THE FIRST FISCAL YEAR OF THE BIENNIUM FROM THE APPROPRIATION FOR THE SECOND FISCAL YEAR OF THE BIENNIUM IF HE FINDS THAT THE AMOUNT ACTUALLY APPROPRIATED FOR THE FIRST FISCAL YEAR OF THE BIENNIUM IS INSUFFICIENT DUE TO AN UNFORSEEN AND UNANTICIPATED EMERGENCY; TO AMEND SECTION 79-901, R.C.M. 1947 BY DELETING REFERENCE TO THE BOARD OF EXAMINERS' POWER TO DECREASE APPROPRIATIONS; TO AMEND SECTION 79-904 BY DELETING REFERENCE TO SECTION 79-902; AND TO REPEAL SECTIONS 79-902 AND 79-903, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. A state department, institution or agency of the executive branch desiring authorization to make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium, shall make application for such authorization to the governor through the director of the budget. If the governor finds that, due to an unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium, with all other income, will be insufficient for the operation and maintenance of said department, institution or agency during the year for which the appropriation was made, he may, after careful study and examination of the request and upon review of the recommendation of the director of the budget, authorize an expenditure during the first fiscal year of the biennium to be made from the appropriation for the second fiscal year of the biennium. The department, institution or agency may expend the amount authorized by the governor only for the purposes specified in the authorization. The governor shall report to the next legislative assembly, in a special section of the budget, the amounts expended as a result of all such authorizations granted by him, and shall request that any necessary supplemental appropriation bills be passed.

Section 2. Section 79-901, R.C.M. 1947, is amended to read as follows:

"Section 79-901. It shall be unlawful for the board of trustees, executive board, managerial staff, president, deans and faculty, or any other authority of any state institution maintained in whole or in part by the state, or for any officer, department, board, commission or bureau, having charge of the disbursement or expenditure of the income provided by legislative appropriation, or otherwise, to expend, contract for the expenditure, or to incur or permit the incurring of any obligation whatsoever in any one year, in excess of the income provided for such year, (matter deleted) or for the state board of examiners, or any supervisory board or authority either directly or indirectly to authorize, direct or order any such institution, officer, department, board, commission or bureau to increase any expenditures, except as (matter deleted) *specifically* provided by law, and is shall be and is hereby made the duty of any and all of such institutions, officers, departments, boards, commissions and bureaus to keep such expenditures, obligations and liabilities within the amount of such income."

Section 3. Section 79-904, R.C.M. 1947, is amended to read as follows:

"79-904. Any authority or member of a board of trustees or any person, officer or employee violating the provisions of section 79-901 (matter deleted), shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisoned in the county jail for not less than thirty days nor more than six months, or by both such fine and imprisonment; and in addition thereto, said authority, member, person, officer or employee, shall be personally liable, and the surety or sureties on his bond shall also be liable, to the state of Montana for the amount of the excess thus unlawfully expended, and said authority, member, person or officer shall be guilty of misfeasance in office, and such employee shall be guilty of wrong doing and each shall be subject to removal from office or from such employment, upon complaint of any taxpayer, filed in a district court of this state, and upon proof of violation of this act, in accordance with law."

Section 4. Sections 79-902 and 79-903, R.C.M. 1947, are repealed.

Explanation of Preceding Bill

Section 1. This section provides for a transfer from the board of examiners to the governor of the power to authorize expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year. Section 79-902, which this section replaces, presently gives the board of examiners the power to authorize "expenditures in excess of appropriations" and would seem to permit the board to authorize deficiency expenditures, although a clear conflict exists with article XII, section 10 of the Montana constitution. However, the section has been interpreted to mean that the board may only allow departments to make expenditures during the first year of the biennium from appropriations made for the second fiscal year of the biennium. Section 79-902 has been redrafted as section 1 of this bill to specifically provide that the governor may only authorize expenditures from the second fiscal year during the first fiscal year and may not authorize deficiency spending. Section 79-902 is repealed in section 4.

Section 2. Because section 79-903 is repealed by section 3 of this bill, reference to that section is deleted from section 79-901.

Section 3. Because section 79-902 is repealed by section 3 of this bill, reference to that section is deleted from section 79-904.

Section 4. Section 79-903 requires the board of examiners to make an "inspection and inventory" of all the stocks, supplies, and materials held by any department of government and further requires the board to decrease the expenditures for the ensuing fiscal year by the amount or value of such supplies. The board of examiners has not taken any inventories for years, this power having been given to the controller. This section, therefore, is repealed along with 79-902.

Appendix G

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO RELIEVE THE STATE BOARD OF EXAMINERS OF THE DUTY TO APPROVE LIQUIDATED CLAIMS AND TO PROVIDE FOR THE PRE-AUDIT OF SUCH CLAIMS BY THE STATE CONTROLLER; TO AMEND SECTIONS 79-104, 79-202, 82-1101, 82-1105, 82-1152, 93-314, 94-9825, 94-9826, 44-410, 44-514, 19-121, 23-1815, 26-123, 32-1620, 44-515, 46-202, 46-224, 46-228, 46-1909, 46-1914, 46-2306, 59-540, 77-151, 80-747, 80-748, 82-2212, 93-306 AND TO REPEAL SECTIONS 59-541, 82-1109, 82-1110, 82-1111, 82-1112, 82-1120, 46-1910 AND 46-1911, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. All authorizations for salary payments, operating expenditures, including all travel, or capital expenditures, including repairs and replacements, shall be given by the officer or governing board of the department concerned, and a record shall be kept by such officer or governing board of all such authorizations and expenditures. Claims for any such expenditures must be submitted to the state controller and must bear the signature of the authorizing officer or employee.

Section 2. The state controller shall pre-audit all liquidated or settled claims against the state, ascertaining that (1) the proper authorizing signature is present, (2) the claim and supporting documents are mathematically and clerically accurate, (3) the proper appropriation and fund is charged and that the appropriation is available and adequate, and (4) the expenditure is not illegal. If the volume of claims will not permit such audit of each claim, item (2) above may be accomplished on a spot-check basis. The pre-auditing conducted by the state controller shall be purely ministerial, concerned only with the legality of the expenditures, the form and accuracy of the claim and supporting documents, and the availability of the funds, and in no event shall the state controller interpose his judgment regarding the wisdom or expediency of any item or items of expenditure. If no appropriation is available for the payment of a settled or liquidated claim, the controller shall audit it and, if it is a valid claim, transmit it to the governor through the office of director of the budget for presentation to the legislative assembly.

Any unliquidated or unsettled claims submitted to the state controller shall be transmitted to the state board of examiners to be processed as provided by law.

Section 3. The state controller may prescribe the claim form and may establish in writing, rules and regulations not inconsistent with law governing the preparation, submittal and processing of claims. All claims shall be processed in the order of their presentation, and all claims disapproved by the state controller shall be returned to the operating agency with an explanation in writing of why the claim was disapproved.

Section 4. The state controller shall maintain a schedule of all salaries paid to personnel of civil executive state offices and shall only approve payroll claims agreeing with that schedule. All changes in personnel or salary status shall be authorized by the board of examiners or the governor as provided by law, and the state controller shall alter his schedule accordingly when notified by the board or the governor. However, the board

shall not approve any changes in personnel or salary status that will cause a department to exceed its appropriation or that will result in a deficiency or supplemental appropriation request to the legislative assembly.

Section 5. Section 79-104, R.C.M. 1947, is amended to read as follows:

"79-104. All warrants for claims which have been audited by the (matter deleted) *state controller* and filed in his office must be drawn in the order of the numbers placed upon them by (matter deleted) *the controller*."

Section 6. Section 79-202, R.C.M. 1947, is amended to read as follows:

"79-202. No moneys received by the state treasurer shall be paid out by him except upon state warrant issued by the state auditor, and the state auditor shall not issue his warrant upon the state treasurer save by virtue of unexhausted appropriation therefor made by the legislative assembly, and after the presentation to him of a claim duly approved by the state (matter deleted) *controller*, save and except for salaries and compensation of officers fixed by law; provided, however, that nothing in this act contained shall require an appropriation by the legislature for the administering of any specific trust funds administered by any state board, commission or department."

Section 7. Section 82-1101, R.C.M. 1947, is amended to read as follows:

"82-1101. The governor, secretary of state and attorney general constitute a board of examiners. (matter deleted) *This board is not required to examine settled or liquidated claims for expenditures of any office or department of state government.*"

Section 8. Section 82-1105, R.C.M. 1947, is amended to read as follows:

"82-1105. The board must keep a record of all its proceedings, and any member may cause his dissent to the action of the majority upon any matter to be entered upon such record. (matter deleted)"

Section 9. Section 82-1152, R.C.M. 1947, is amended to read as follows:

"82-1152. (matter deleted) *No claim against the state for legal advertising or any of the publications covered by this act shall be allowed unless there is attached to said claim the (matter deleted) certification of the publisher or printer (in the case of corporations or quasi-corporations by the business or advertising manager thereof) properly executed, setting forth that the price or rate charged the state of Montana for the publication for which claim is made, is not in excess of the minimum rate charged any other advertiser for publication or advertisement set in the same sized type and published for the same number of insertions. And it is hereby declared to be unlawful to make any claim against or to charge or attempt to charge, the state of Montana for any publication in excess of the minimum going rate charged any other advertiser for the same publication, set in the same sized type and published for the same number of insertions.*"

Section 10. Section 93-314, R.C.M. 1947, is amended to read as follows:

"93-314. On the first of each month, or within three (3) days thereafter, such district judge, who may desire to avail himself of the provisions of this act, shall make out an itemized claim against the state of Montana, showing, with dates and particulars, all moneys by him, within the preceding month paid out and expended for and on account of such expenses; and shall verify such claim by (matter deleted) *certifying* that the items of the claim are true and correct, and are wholly unpaid, and that the expenditures therein enumerated were actually and necessarily made in the discharge of official business while away from home. He shall then file such claim *with the state to be processed as provided by law.* (matter deleted)"

Section 11. Section 94-9825, R.C.M. 1947, is amended to read as follows:

"94-9825. The board shall appoint a state director of probation and parole, hereinafter referred to as the "director" who shall appoint, with the approval of the board, an assistant director, probation and parole officers and other employees required to administer the provisions of this act. The director shall receive an annual salary of seven thousand dollars (\$7,000.00) per annum payable monthly. All other officers and employees of the board shall receive such compensation for their services as may be fixed by the board. All officers and employees of the board shall hold office at the pleasure of the board and shall perform such duties as are imposed on them by law or by the board.

The salaries of all officers and employees of the board shall be paid monthly after such salaries have been approved by the board upon claims therefore (matter deleted)."

Section 12. Section 94-9826, R.C.M. 1947, is amended to read as follows:

"94-9826. All expenses incurred by the board pursuant to the provisions of this act, including the actual and necessary traveling and other expenses and disbursements of the members thereof, its officers and employees, incurred while on business of the board either within or without the state, shall, unless otherwise provided in this act, be paid from funds appropriated, after being approved by the board upon claims therefor (matter deleted)."

Section 13. Section 44-410, R.C.M. 1947, is amended to read as follows:

"44-410. All accounts for the proofing and printing of books, legal periodicals, library collections, furniture, fixtures and supplies must be prepared by the librarian, submitted to and approved by at least one (1) member of the board of trustees and thereafter (matter deleted) paid out of the state treasury from the library fund."

Section 14. Section 44-514, R.C.M. 1947, is amended to read as follows:

"44-514. The librarian is authorized to pay reasonable freight, express, and mail charges upon books or other articles sent to the library by the general, state, or foreign governments, or private parties, taking proper vouchers therefor, and upon (matter deleted) *approval* of such (matter deleted) *claims as provided by law*, (matter deleted) the same must be paid out of the state treasury from the particular historical society fund."

Section 15. Section 19-121, R.C.M. 1947, is amended to read as follows:

"19-121. The funds previously collected for the above purposes and now held by the state treasurer are hereby transferred to a fund to be known as the Montana fine arts' commission fund and there held by the state treasurer as a special fund, not part of the general fund, and to consist only of private donations now and hereafter collected. Such funds may be expended only for the purposes enumerated in such paragraphs 1 to 6 inclusive in section 19-120 as amended herein, by the commission (matter deleted)."

Section 16. Section 23-1815, R.C.M. 1947, is amended to read as follows:

"23-1815. If the returns from all the counties have not been received on the fifth day before the day designated for the meeting of the board of state canvassers, the secretary of state must forthwith send a messenger to the clerk of the board of county canvassers of the delinquent county, and such clerk must furnish the messenger with a certified copy of the statement mentioned in section 23-1805. The person appointed is entitled to receive as compensation five dollars per day for the time necessarily consumed in such service, and the traveling expenses necessarily incurred. His account therefor, certified by the secretary of state, (matter deleted) must be paid out of the general fund of the state treasury."

Section 17. Section 26-123, R.C.M. 1947, is amended to read as follows:

"26-123. All salaries, per diem, expenses and claims incurred by the state fish and game commission, or any person appointed or employed by them, (matter deleted) shall be paid out of the state fish and game funds, upon warrants properly drawn thereon; provided, however, that the aggregate of all salaries, per diem, expenses and claims presented for payment shall not exceed at any time the total amount in said state fish and game fund. The state fish and game commission shall approve all bills properly presented which have been incurred under its authority and by its direct order. The expenses of all deputy state fish and game wardens(state fish and game wardens) shall be approved by the state fish and game warden (director) before they are paid, and the salary, per diem or expenses of any employee employed in the propagation or distribution of fish shall be approved by the superintendent of state fisheries, before they are paid. All items of expense, amounting to more than one and one-half dollars incurred by any one employed in the state fish and game department, shall be evidenced by a proper voucher or receipt, before they shall be approved, allowed, or paid."

Section 18. Section 32-1620, R.C.M. 1947, is amended to read as follows:

"32-1620. All accounts and expenditures shall be certified by the state highway engineer, (matter deleted) and paid by the state treasurer upon warrants drawn by the state auditor out of the proper funds created by this act. In submitting claims for payment as herein provided, the state highway commission shall certify whether the warrant is to be drawn against the state highway fund or the state highway trust fund, and if the claim is against the state highway trust fund, it shall state the particular project to which the payment will apply. The state treasurer is hereby authorized to receive all warrants drawn by the United States government in accordance with the provisions of any act of congress, and to credit the same to the state highway trust fund.

The state highway commission shall provide a system of accounting for each project considered which shall show the amount of money received therefor, and also an itemized statement of the expenses in connection therewith. (matter deleted)"

Section 19. Section 44-515, R.C.M. 1947, is amended to read as follows:

"44-515. All other claims, including claims for salaries and expenses of operation, acquisition, purchases of books, etc., shall be prepared by the claimant, submitted to the librarian for verification and approval and by the librarian approved, and thereafter (matter deleted) *processed as provided by law.*"

Section 20. Section 46-202, R.C.M. 1947, is amended to read as follows:

"46-202. All claims against the board must be verified by oath of claimant, or his agent with the knowledge of the facts (matter deleted)."

Section 21. Section 46-224, R.C.M. 1947, is amended to read as follows:

"46-224. Claims against the state arising under this act, (matter deleted) if found correct, (matter deleted) *shall be processed as provided by law and paid from any funds or account at the disposal of the livestock sanitary board.*"

Section 22. Section 46-228, R.C.M. 1947, is amended to read as follows:

"46-228. The owner of any animal or property destroyed, as provided in this act, shall be entitled to indemnity therefor as herein provided, except in the following cases:

1. Animals belonging to the United States.

2. Animals brought into the state violating any provisions of this act, or regulations of the livestock sanitary board.

3. Animals which the owner or claimant knew to be diseased, or had notice thereof at the time they came into his possession.

4. Animals which had the disease for which they were slaughtered, or which were destroyed by reason of exposure to such disease, at the time of their arrival in the state; providing, however, that any animal or animals of the second class which were shipped into the state of Montana in accordance with the livestock sanitary board regulations and accompanied by the proper certificate of health from a recognized state or federal veterinarian may be paid for when such payment is authorized at a meeting of the livestock sanitary board (matter deleted).

5. Animals which have not been within the state of Montana for at least one hundred and twenty days prior to the discovery of the disease; provided, that animals of the second class which have not been in the state one hundred and twenty days may be paid for when such payment is authorized at a meeting of the livestock sanitary board (matter deleted).

6. When the owner or agent has not used reasonable diligence to prevent disease or exposure thereto.

7. When the owner or agent has not complied with the rules and regulations of the livestock sanitary board with respect to animals condemned.

8. No compensation or indemnity will be paid for the destruction of any livestock affected with tuberculosis, or other infectious, contagious, communicable, or dangerous disease, unless the entire herd or band of which such affected livestock is a part shall be under the supervision of the livestock sanitary board for the eradication of such disease.

9. When animals condemned are not destroyed within sixty days after they have been determined to be affected with or exposed to a disease which requires them to be destroyed by order of the livestock sanitary board."

Section 23. Section 46-1909, R.C.M. 1947, is amended to read as follows:

"46-1909. It shall be the duty of the livestock commission to examine into and investigate every such bounty claim and certificate filed with such commission, and in making such examination and investigation, the commission may require the holder of any such certificate or claim to furnish the commission with such additional evidence or proof with reference thereto as the commission may deem necessary and proper, and such evidence may be either oral or documentary as required by the commission. The livestock commission shall, after making such examination and investigation, indorse on such certificate or claim its approval or disapproval thereof, and if the same or any part thereof be disapproved, such indorsement shall state the reasons for such disapproval. If any such certificate or claim be *approved it shall be processed as provided by law* (matter deleted)."

Section 24. Section 46-1914, R.C.M. 1947, is amended to read as follows:

"46-1914. There is hereby created a fund, to be known as the "bounty fund". The tax commission, or the department of state whose duty it is to fix tax levies, shall annually prescribe the levy recommended by the livestock commission to be made against livestock of all classes, for the purpose of paying for the destruction of wild animals killed within the state, which tax in any one year shall not exceed one and one-half (1½) mills on a dollar upon the assessed valuation of such livestock, and such moneys so received shall be used and applied only to the payment of claims for the destruction of wild animals and to the administration of the provisions of this act, approved by the livestock commission, and the moneys received for the taxes so levied shall be transmitted

annually with other taxes for state purposes to the state treasurer by the county treasurer of each county, and when received by the state treasurer shall be placed to the credit of the bounty fund, and such moneys shall thereafter be paid out on claims approved as aforesaid, (matter deleted) in accordance with the law governing the payment of claims (matter deleted), and all moneys in said fund are hereby appropriated for such purposes."

Section 25. Section 46-2306, R.C.M. 1947, is amended to read as follows:

"46-2306. The members of the commission shall receive no compensation for their services other than the actual amount of traveling expenses actually incurred in respect to the performance of their official duties in attendance at regular or special meetings of the board and ten dollars (\$10.00) per diem for each day actually in attendance at such board meetings. The per diem of each member of the board shall be limited to not exceed the amount of five hundred dollars (\$500.00) per year, such per diem and expenses to be audited, allowed and paid as herein provided.

The commission shall audit all claims, accounts or bills for expenses, per diem, or expenditures incurred by it or its employees. If the commission approves them, they shall be *processed as provided by law and paid from* (matter deleted) the state grass conservation fund (matter deleted); provided that the board may by resolution authorize the secretary to audit and certify all expenses, salaries, and expense accounts of the commission, or its employees, and such audit shall be made a part of the commissioner's report to the governor, a copy of which shall be sent to all state districts coming under the provisions of this act."

Section 26. Section 59-540, R.C.M. 1947, is amended to read as follows:

"59-540. Every such person so engaged shall *periodically submit a claim containing* (matter deleted) a schedule of expenses and amounts claimed for said period (matter deleted). Said schedule shall show in what capacity such person was engaged each day while away from the department in which said daily duties arose, and shall show expense items of each day in detail, such as the amount of per diem allowance claimed, transportation fare, mileage and other such items."

Section 27. Section 77-151, R.C.M. 1947, is amended to read as follows:

"77-151. All bills, claims, and demands against the national guard appropriation shall be certified or verified in the manner prescribed by regulations promulgated by the governor, and shall be audited and approved by the adjutant-general and, if allowed, (matter deleted) shall be paid (matter deleted) from the national guard appropriation; provided, however, that in all cases where the organized militia or any part thereof is called into the service of the state in case of war, riot, insurrection, invasion, breach of the peace, disaster, or in aid of the civil authorities, warrants for allowed pay and expenses for such service shall be drawn upon the general fund of the state treasury and paid out of any moneys in said fund, on the order of the governor."

Section 28. Section 80-747, R.C.M. 1947, is amended to read as follows:

"80-747. The moneys appropriated by the legislative assembly and the proceeds of the labor of prisoners constitute the state prison fund. The moneys in the state prison fund are applicable to the payment of the expenses of the prison, and salaries (matter deleted). The board cannot contract any debts or incur any liability binding upon the state."

Section 29. Section 80-748, R.C.M. 1947, is amended to read as follows:

"80-748. Sheriffs delivering prisoners at the state prison must receive all actual expenses necessarily incurred in their transportation, the amount of the expenses in each case to be (matter deleted) paid out of any moneys in the state treasury appropriated for that purpose, and no further or other compensation must be received by sheriffs for such transportation or services."

Section 30. Section 82-2212, R.C.M. 1947, is amended to read as follows:

"82-2212. The expenses incurred by the secretary of state in carrying into effect the provisions of sections 82-2202 to 82-(matter deleted) 2204 inclusive must be (matter deleted) paid out of any moneys specifically appropriated for the purpose."

Section 31. Section 93-306, R.C.M. 1947, is amended to read as follows:

"93-306. As soon as his services in connection with the trial or hearing are concluded, the judge shall certify in detail the amount of money necessarily and actually expended by him for his traveling expenses and board and lodging, as above specified, and shall file the claim (matter deleted) *with the state to be processed as provided by law.*"

Section 32. Sections 59-541, 82-1109, 82-1110, 82-1111, 82-1112, 82-1120, 46-1910 and 46-1911, R.C.M. 1947, are repealed.

Explanation of Preceding Bill

The first four sections of this bill outline the powers and duties of the state controller relating to the pre-auditing of liquidated claims.

Sections 5 and 6 amend laws pertaining to duties of the state treasurer and state auditor to conform with other changes.

Section 7 and 8. Delete reference to the claim approval power of the board of examiners.

Section 9 amends 82-1152 to delete reference to the board of examiners' power to approve claims for printing. (82-1916 gives the state purchasing agent "exclusive power" to contract for all state printing. 82-1910 gives the purchasing agent power to "supervise and attend all public printing".) "Certification" is substituted for "affidavit" to conform to actual practices and legislation abolishing the affidavit requirement for all claims.

Sections 10 through 31 amend a number of sections relating to the operation of various state agencies to eliminate the requirement of board of examiners' approval of claims.

Section 32 repeals a number of sections for the following reasons:

59-541 requires the board to maintain separate files for all persons traveling for the state. This has not been necessary since a fixed per diem replaced limited actual expenses. In any event, the board would no longer process travel claims.

82-1109 relates to board of examiners' procedure for approving liquidated claims and is no longer necessary. The twenty-day limitation on claim transmittal is preserved in 59-701 and 59-701.2.

82-1110 relates to board of examiners' procedure for approving liquidated claims and is no longer necessary.

82-1111 relates to board of examiners' procedure for approving liquidated claims and is no longer necessary.

82-1112 provides for the transmittal to the legislative assembly of liquidated claims if no appropriation has been made or if the appropriation has been exhausted. This procedure is now covered by the last sentence of section 2 of this bill.

82-1120 prohibits the auditor from writing a warrant on a claim not approved by the board. Section 5 of this bill amends 79-104 to provide that the auditor must draw warrants on claims approved by the controller in the order of numbers placed upon them by the state controller. Section 6 of this bill amends 79-202 to prohibit the state auditor from issuing a warrant on a claim not approved by the controller. Therefore, section 82-1120 is unnecessary.

46-1910 and 46-1911 contain unnecessary detail to begin with, and would now conflict with other proposed amendments.

Appendix H

.....BILL NO.

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO RELIEVE THE STATE BOARD OF EXAMINERS OF CERTAIN POWERS AND DUTIES RELATING TO THE SUPERVISION OF THE STATE PURCHASING AGENT, THE PUBLICATION OF BIENNIAL REPORTS, THE SUPERVISION OF STATE TRAVEL, THE EXAMINATION OF RECORDS OF STATE OFFICIALS AND THE PURCHASING OF SUPPLIES BY AMENDING SECTIONS 82-1902, 82-1903, 82-1904, 82-1905, 82-1906, 82-1909, 82-1916, 82-1919, 79-602, 82-1125, 25-508, 41-1608 AND 3-107, R.C.M. 1947, AND BY REPEALING SECTIONS 82-1122, 82-1123, 82-1124, 82-1126, 82-1127, 82-1128, 82-1129, 82-1130, 82-1140, 82-1141, 82-1142, 82-1143, 82-1145, 82-1146, 82-1148, 59-703, 59-702, 59-704, 77-1003 AND 82-2205, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 82-1902, R.C.M. 1947, is amended to read as follows:

"82-1902. The state purchasing agent shall, under the restrictions of this act, have full and sole power and authority and it shall be his duty (matter deleted) to contract for the purchase or direct and supervise the purchase and sale of all supplies of whatever nature necessary for the proper transaction of the business of each and every state department, commission, board, institution, or official. For the purpose of making such purchases and contracts, the state purchasing agent shall be and is hereby made the purchasing agent of and for each and every state department, commission, board, institution and official (matter deleted)."

Section 2. Section 82-1903, R.C.M. 1947, is amended to read as follows:

"82-1903. The state purchasing agent shall have the power and authority (matter deleted) to maintain warehouses and to rent or lease, or construct the same, and to issue such rules and regulations as may be necessary for the proper and economical conduct of the business of the state purchasing agent (matter deleted)."

Section 3. Section 82-1904, R.C.M. 1947, is amended to read as follows:

"82-1904. An estimate or requisition presented by the department, commission, board or state official in control of the appropriation or fund against which such contract or purchase is to be charged, must be approved by the state purchasing agent, and this shall be full authority for any contract and any purchase made by the state purchasing department (matter deleted)."

Section 4. Section 82-1905, R.C.M. 1947, is amended to read as follows:

"82-1905. All valid claims on account of such contract and purchases negotiated by the state purchasing agent shall be audited and paid from the sums severally set aside for the use of the state purchasing department by the contract and purchase estimate or requisition (matter deleted)."

Section 4. Section 82-1906, R.C.M. 1947, is amended to read as follows:

"82-1906. The state purchasing agent shall have exclusive power (matter deleted) to contract for all printing and to purchase, sell, or otherwise dispose of, or to authorize, regulate and control the purchase, sale or other disposition of, all materials and supplies, serv-

ice, equipment, and other physical property of every kind, required by any state institution or by any department of the state government; and to purchase or cause to be purchased all needed commissary supplies, and all raw material and tools necessary for any manufacturing carried on at any of said institutions; and to sell all manufactured articles, and collect the money for the same, and generally to regulate and control all purchases by any department of the state government, or by any state institution; and also to furnish, repair, and maintain the executive residence for the governor. The state purchasing agent shall remit to the state treasurer all moneys received from the sale of property belonging to the state of Montana, said moneys to be by the treasurer credited to the general fund."

Section 6. Section 82-1909, R.C.M. 1947, is amended to read as follows:

"82-1909. All stationery, printing, paper, fuel and lights used in the legislative and other departments of government, and the printing, binding and distribution of the laws, journals and department reports and other printing and binding, and repairing and furnishing the halls and rooms used for the meeting of the legislative assembly and its committees, shall be procured by the state purchasing agent as hereinafter provided (matter deleted)."

Section 7. Section 82-1916, R.C.M. 1947, is amended to read as follows:

"82-1916. The state purchasing agent shall have exclusive power, subject to the consent and approval of the governor, to contract for all printing for any purpose used by the state of Montana in any state office, elective or appointive or by any state board, commission, bureau, state institution or department and shall supervise and attend to all public printing of the state of Montana in the manner in this act provided, and shall prevent duplication and unnecessary printing; all forms, blanks and documents printed for distribution to the departments of the state government or state institutions shall be serially numbered and indexed by the state purchasing agent and sample copies of each thereof permanently retained in his office; and the state purchasing agent shall from time to time furnish to the public general information as to the nature, description and official numbers of such reports as are available for public distribution.

Unless otherwise provided by law, the state purchasing agent in letting contracts as provided in this act, for the printing, binding and publishing of all laws, journals and reports of the various offices, departments, boards, commissions and institutions of the state, shall have the power to determine the quantity, quality, style and grade of all such printing, binding and publishing.

Provided, that all reports of *any department or institution of the executive branch* for any fiscal year required by law to be published, must be submitted to the governor before November 1st, of each year, for approval, correction or modification, and when by the governor approved, as corrected or modified, must by him be certified to the state purchasing agent for publication, provided, the governor may require all such reports or any number of them, to be published in one volume, such publication to be completed on or before the tenth day of January thereafter. *Such report shall be confined to a factual presentation to the governor and legislature of the activities of the department concerned and any recommendations of the department head and shall be 8½ x 11 inches in outside dimension and shall employ single color covers only.* And provided further, any such reports so published, in one volume may also be separately published in pamphlet form, in such number as may be directed by the governor.

The reports shall be distributed by the department responsible for making the report. Such distribution shall be within the discretion of the head of the department making the report, but the following distribution shall be mandatory:

To the governor—as many as he desires, but not less than two (2) copies of each report.

To the secretary of state—two (2) copies of each report.

To the legislative council—two (2) copies of each report

To the librarian of the state historical library—forty (40) copies of printed reports and a minimum of four (4) copies of mimeographed or carbon reports.

The historical society of Montana shall distribute publications so received to the public libraries, and other educational, scientific, library or art institutions of the state, which may apply to be put on the mailing list for all or a portion of the state publications; and to such libraries and other institutions outside this state with which the historical society of Montana may have established exchange relations.

The historical society of Montana shall transmit to the United States library of congress, two (2) copies of every administrative report or study.

To the legislative assembly of the State of Montana—one (1) copy for each member.”

Section 8. Section 82-1919, R.C.M. 1947, is amended to read as follows:

“82-1919. Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as hereinbefore provided. The state purchasing agent may allow (matter deleted) any state officer, board, commission or superintendent of state institution to purchase the fresh fruits and vegetables therefor, and make other and minor purchases for the same; an itemized account to be kept of all such purchases and furnished to the state purchasing department.

Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which such articles are usually bought and sold or such services engaged between individuals, but under the direction of the state purchasing agent (matter deleted).”

Section 9. Section 79-602, R.C.M. 1947, is amended to read as follows:

“79-602. The (matter deleted) *state controller* may authorize the establishment and maintenance at any and all of the state institutions, or in any of the departments, boards, or commissions, of Montana of contingent revolving accounts, transferring in trust to the business offices of said institutions such sums of money as may appear necessary, to be used by said institutions for the payment of demands requiring immediate cash payment, under specific regulations to be established by (matter deleted) *the state controller*. But each and every state institution granted a contingent revolving account shall report to the state (matter deleted) *controller* monthly all transactions involving such contingent revolving accounts, with proper vouchers for every payment made therefrom. The state (matter deleted) *controller* may cancel such authorizations and recall such funds at pleasure.”

Section 10. Section 82-1125, R.C.M. 1947, is amended to read as follows:

“82-1125. The governor, secretary of state, and attorney general of the state of Montana are hereby constituted ex officio a furnishing board with the (matter deleted) *duty to allocate and furnish office space for the departments of state government.*”

Section 11. Section 25-508, R.C.M. 1947, is amended to read as follows:

“25-508. (1) Hereafter no state, county, city or school district officer or employee of the state or of any county or city, or of any school district, shall receive payment from any public funds for traveling expenses or other expenses of any sort or kind for attendance upon any convention, meeting, or other gathering of public officers save and except for attendance upon such convention, meeting or other gatherings as said officer or employee may by virtue of his office (matter deleted) *find it necessary* to attend, (matter deleted) and provided further, that the board of trustees of any county or district high school or of

any school district may by resolution adopted by a majority of the entire board make their district a member of any state association of school districts or school district trustees, or any other strictly educational association and authorize the payment of dues to such association, and the necessary traveling expenses of an employee, or one (1) member of said board, to attend meetings of such association, or other meetings called for the express purpose of considering educational matters.

(2) Provided, further, (matter deleted) *three* (3) members of the board of county commissioners may be allowed actual transportation expenses and per diem for attendance upon any general meeting of county commissioners or assessors held within the state not oftener than once a year and the proportionate expenses and charges against each county as a member of such association shall also be paid; provided also that county attorneys and sheriffs are hereby authorized to attend their respective meeting or convention held within the state and are allowed actual traveling expenses not oftener than once a year for attending same.

(3) Provided, further, that nothing herein shall be construed to prevent any city or town council, commission or other governing body from paying membership fees and dues in any organization of city and town officials whose purpose is improvement of laws relating to city and town government and their better and more economical administration, and the necessary expense of any regular officer or employee of such city or town in attending any convention or meeting of such organization upon the direction of such council, commission, or other governing body by order upon its minutes stating that the public interest requires such attendance; such payment of membership fees, dues and/or expense to be made from such fund of the city or town as the council, commission or other governing body shall direct by such order, upon claim presented, audited and allowed as are other claims against such city or town."

Section 12. Section 41-1608, R.C.M. 1947, is amended to read as follows:

"41-1608. The annual reports of the commissioner shall be combined in one volume and published biennially. (matter deleted)."

Section 13. Section 3-107, R.C.M. 1947, is amended to read as follows:

"3-107. The department of agriculture (matter deleted) shall have power and it shall be its duty:

1. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture and apiculture, domestic arts, dairying, cheese making, poultry raising, the production of wool, and all other allied industries.

2. To collect and publish statistics relating to the production and marketing of crops and livestock, and of beef, pork, poultry, fish, mutton, wool, butter, cheese, and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the state.

3. To assist, encourage, and promote the organization of farmers' institutes, horticultural and agricultural societies, the holding of fairs, livestock shows, or other exhibits of the products of agriculture.

4. To establish and promulgate standards for open and closed receptacles for farm products and standards for the grade and other classification of farm products.

5. To cooperate with producers and consumers in devising and maintaining economical and efficient systems of distribution, and to aid in whatever way may be consistent or necessary in accomplishing the reduction of waste and expense incidental to marketing.

6. To have authority to maintain a market news service, including information as to crops, freight rates, commission rates, and such other matters as may be of service to producers and consumers, acting as a clearing house for information between producer and consumer.

7. To gather and diffuse timely information concerning the supply, demand, prevailing prices, and commercial movement of farm products.

8. To investigate the practices and methods of factors, commission merchants, and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, dairy products, eggs, livestock, vegetables, or other farm products, to the end that the distribution of such commodities through such factors, commission merchants, and others shall be efficiently and economically accomplished without hardship, waste or fraud.

9. To cooperate with the state college of agricultural experiment stations and the federal government to the end that all available agencies may be employed, to the best advantage, for the betterment of the agricultural industries of the state, for the improvement of country life and for promoting equality of opportunity for the farmers of the state.

10. To ascertain, as far as possible, what conditions make for the success of a homeseeker and what conditions make for his failure, and to assist in remedying such of the conditions which make for failure as are capable to remedy. To examine or cause to be examined upon application of any land colonization company or lands proposed for colonization, and to certify his findings when conditions warrant:

(A) That the land is suitable for agricultural purposes.

(B) That the location of the land with reference to public roads and shipping facilities is favorable to colonization development.

(C) That the plan of colonization in each instance is in the interest of the settlers or homeseeker.

(D) That the terms of payment are on the amortization plan.

(E) That satisfactory assurance has been given to the commissioner that the plan of colonization adopted will not be changed to the detriment of the homeseeker.

11. To conduct and manage the state fair and to have custody of the state fairgrounds, buildings, and other property belonging thereto.

12. To take and hold in the name of the state of Montana property, real and personal, acquired by gifts, subscriptions, donations, and bequests.

13. To sell and dispose of personal property owned by it in such manner as the commissioner may provide, when in the judgment of the department such sale or disposal best promotes the purposes for which the department is established.

14. To contract (matter deleted) in respect to any matter within the scope of its authority."

Section 14. Sections 82-1122, 82-1123, 82-1124, 82-1126, 82-1127, 82-1128, 82-1129, 82-1130, 82-1140, 82-1141, 82-1142, 82-1143, 82-1145, 82-1146, 82-1148, 59-703, 59-702, 59-704, 77-1003 and 82-2205, R.C.M. 1947 are repealed.

Explanation of Preceding Bill

Sections 1 through 6 and section 8 delete reference to the board of examiners in certain sections of the purchasing code. (Section 7 is explained below.) At the present time the board of examiners' only actual participation in state purchasing is the approval of requisitions for capital items. Any statute requiring approval by the board of routine activities of the purchasing department is inconsistent with the proposed responsibility of the state controller to the governor. Furthermore, the board lacks the necessary personnel to adequately process such business. These amended sections are discussed individually below.

82-1902. This section is amended to obviate the approval of the board of examiners of the functions of the state purchasing agent. The last sentence allowing the board to establish contingent revolving funds is also deleted as it duplicates section 79-602 and would conflict with that section as amended. (See section 9 of this bill.)

82-1903. Requirement of approval by state board of examiners for maintenance of warehouses is deleted.

82-1904. Provision requiring approval by state board of examiners for purchase of furniture or fixtures is deleted.

82-1905. The provision requiring "Sworn Statements" of an unknown nature by department heads and the purchasing agent is deleted as is the requirement for the board of examiners' approval. Affidavits on other claims are no longer required by law.

82-1906. Requirement of approval by state board of examiners is deleted.

82-1909. Requirement of approval by state board of examiners is deleted.

82-1919. (Section 8.) Requirement of approval by state board of examiners is deleted.

Section 7. Sections 59-702 and 59-703 conflict with 82-1916 and are therefore repealed in section 14 of this bill. The last paragraph of 59-703 relating to the size of reports is retained by adding it to 82-1916. The text of 59-704 which relates to the distribution of reports is also consolidated with 82-1916 and 59-704 is repealed. The number of copies to be distributed to the governor and secretary of state is reduced to two.

Section 9 amends 79-602 to give the state controller the power to establish contingent revolving accounts at the various institutions. The state controller actually establishes the accounts now, subject, however, to rubber stamp approval by the board of examiners.

Section 10 provides for an addition to 82-1125 to give the board the power to allocate and furnish office space for departments of state government. The board presently exercises this power under a provision of 82-1127 (to hire all offices for the state officers), however, 82-1127 is being repealed, so the power has been restated as part of 82-1125.

Section 11 amends section 25-508 to divest the board of examiners of the power to approve all of state travel. 25-508 provides that no public employee may receive expenses for travel except to those meetings which he may be "required by law to attend". Few state employees are required by law to travel—the standard of necessity is substituted.

Section 12 removes the requirement that the annual reports of the commissioner of labor be approved by the board of examiners.

Section 13 removes an unnecessary requirement that the commissioner of agriculture contract in respect to matters within the scope of his authority only with the approval of the state board of examiners.

Section 14. This section repeals a number of sections for the reasons set out below.

82-1122, 1123 and 1124 relate to certain auditing functions of the board which, if they have ever been exercised, have been defunct for many years. 82-1002 now makes the state examiner responsible for such audits. The publication requirement in 82-1123 is unnecessary as the controller's records are public.

The reference in 82-1126 to the board of supplies is unnecessary since the board no longer functions as a board of supplies. The reference to the furnishing board is repetitious of 82-1125.

82-1127 refers to the powers of the board of examiners when acting as a board of supplies. This section authorizes the board to furnish all stationery, printing, etc., for the offices of state government as well as to take various inventories. These powers were all transferred to the purchasing agent years ago with the exception of the one relating to the furnishing of state offices which is preserved in section 10 of this bill.

82-1128 through 1130 require advertising for bids, for supplies. The board no longer lets contracts for supplies. Advertising requirements are preserved in 82-1131 (buildings) and 82-1913 (supplies).

82-1140 through 1143 also relate to the duties of the board of examiners when acting as the board of supplies. The controller now makes all arrangements for the legislature prior to the session.

82-1145 gives the board the power to hire personnel in the executive branch. This section has been superseded by 59-901 and 59-902.

82-1146 duplicates section 79-902 and would conflict with section 1 of the bill in *Appendix F*.

82-1148 duplicates 79-901 and the appropriation acts themselves.

59-703 provides that the board of examiners shall approve the printing of all biennial reports. This is in conflict with section 82-1916 which gives the governor the power to approve the printing of such reports and also to modify the reports and publish them in one volume if he desires. 59-702 requires a different submittal date than 82-1916. Therefore, 59-702 and 59-703 are repealed. The last paragraph of 59-703 relating to the size of reports is preserved in 82-1916. (See section 7 of this bill.)

59-704 relating to the distribution of reports is repealed but the entire text is consolidated with 82-1916. See section 7 of this bill.)

77-1003 is not being complied with—all appropriations to the veteran's welfare are from the general fund. The intent was probably to require that a separate account be set up, which is done as a matter of course for all departmental appropriations.

82-2205 requires the secretary of state to act as custodian for supplies purchased by the board of examiners. The board no longer functions as a board of supplies and this section is obsolete.

Appendix I

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE CONTROLLER SHALL BE APPOINTED BY THE GOVERNOR, BE RESPONSIBLE TO THE GOVERNOR AND SERVE AT THE GOVERNOR'S PLEASURE AND TO DELETE REFERENCE TO THE SALARY OF THE STATE CONTROLLER BY AMENDING SECTIONS 82-106 AND 82-107, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 82-106, R.C.M., 1947, is amended to read as follows:

"82-106. The office of state controller for the state of Montana is hereby created and established. (matter deleted) *The state controller shall be appointed by the governor with the advice and consent of the senate. He shall be responsible to the governor and shall serve at the pleasure of the governor.* Said state controller (hereinafter referred to as the controller) shall be a qualified elector of Montana and shall be selected with special reference to his training, experience, ability, and knowledge of the principles and practices of public (matter deleted) *finance and governmental accounting.*"

Section 2. Section 82-107, R.C.M. 1947, is amended to read as follows:

"82-107. (matter deleted). The controller shall take the constitutional oath of office and shall execute to the state of Montana a bond in the penal sum of fifty thousand dollars (\$50,000), to be approved by the state board of examiners."

Appendix J

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE STATE EXAMINER TO CONDUCT AN ANNUAL AUDIT OF ALL STATE INSTITUTIONS INCLUDING THE UNIVERSITY OF MONTANA AND RELIEVING THE STATE CONTROLLER OF THE DUTY TO CONDUCT QUARTERLY EXAMINATIONS OF THE UNIVERSITY OF MONTANA BY AMENDING SECTIONS 82-1014 AND 82-1016 R.C.M. 1947 AND BY REPEALING SECTION 82-102, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 82-1014, R.C.M. 1947, is amended to read as follows:

"82-1014. The state examiner is hereby directed to examine and audit *each fiscal year* the accounts and books of the *state soldiers' home, state hospital, state prison, state tuberculosis sanitarium, home for senile men and women, state industrial school, state training school and hospital, Montana children's center, state vocational school for girls, state school for the deaf and blind and the various units of the university of Montana (matter deleted)*, and has authority to employ such clerical, accounting and other personnel as may be deemed necessary by him to carry out the provisions of this act. Such examination shall include, within reason, but not limited to, the verification of all fees collected and their disposition, *a statement of all income including federal and private grants*, the tabulation of expenditures made from each of the appropriations granted by the legislative assembly, the consideration of all claims and expenditures as to their fund allocation and validity, the analysis of the sources of funds applied to the redemption of revenue bonds outstanding, the segregation of expenses allocated to buildings and activities designated as self liquidating, and any investigation as may be requested by the *(matter deleted) governing boards of the institutions.*"

Section 2. Section 82-1016, R.C.M. 1947, is amended to read as follows:

"82-1016. The state examiner shall report to the governor and the *(matter deleted) governing boards of the various institutions*, the results of such examination and audit, *including any comments, criticism, and recommendations*, which report shall be available to the legislative council and legislative assembly."

Section 3. Section 82-102, R.C.M. 1947, is repealed.

Explanation of Preceding Bill

Section 1. 82-1014 has been enlarged to include units of the university and custodial institutions to conform with the recommendation on post-auditing.

Section 2. 82-1016 has been amended to encourage the preparation of a more analytical audit report.

Section 3. 82-102 is recommended for repeal. Subsection 1 conflicts with section 82-1014; subsection 2 is repetitious of 82-110 which provides "The controller, acting with the state examiner, shall prescribe and install uniform accounting and reporting for the several state boards, bureaus, departments, commissions and institutions . . ."

Appendix J

.....BILL NO.....

INTRODUCED BY.....

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE STATE EXAMINER TO CONDUCT AN ANNUAL AUDIT OF ALL STATE INSTITUTIONS INCLUDING THE UNIVERSITY OF MONTANA AND RELIEVING THE STATE CONTROLLER OF THE DUTY TO CONDUCT QUARTERLY EXAMINATIONS OF THE UNIVERSITY OF MONTANA BY AMENDING SECTIONS 82-1014 AND 82-1016 R.C.M. 1947 AND BY REPEALING SECTION 82-102, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 82-1014, R.C.M. 1947, is amended to read as follows:

"82-1014. The state examiner is hereby directed to examine and audit *each fiscal year* the accounts and books of the *state soldiers' home, state hospital, state prison, state tuberculosis sanitarium, home for senile men and women, state industrial school, state training school and hospital, Montana children's center, state vocational school for girls, state school for the deaf and blind and the various units of the university of Montana (matter deleted)*, and has authority to employ such clerical, accounting and other personnel as may be deemed necessary by him to carry out the provisions of this act. Such examination shall include, within reason, but not limited to, the verification of all fees collected and their disposition, *a statement of all income including federal and private grants*, the tabulation of expenditures made from each of the appropriations granted by the legislative assembly, the consideration of all claims and expenditures as to their fund allocation and validity, the analysis of the sources of funds applied to the redemption of revenue bonds outstanding, the segregation of expenses allocated to buildings and activities designated as self liquidating, and any investigation as may be requested by the *(matter deleted) governing boards of the institutions.*"

Section 2. Section 82-1016, R.C.M. 1947, is amended to read as follows:

"82-1016. The state examiner shall report to the governor and the *(matter deleted) governing boards of the various institutions*, the results of such examination and audit, *including any comments, criticism, and recommendations*, which report shall be available to the legislative council and legislative assembly."

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Explanation of Preceding Bill

Section 1. 82-1014 has been enlarged to include units of the university and custodial institutions to conform with the recommendation on post-auditing.

Section 2. 82-1016 has been amended to encourage the preparation of a more analytical audit report.

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